MINISTRY OF TRANSPORT.

RATES ADVISORY COMMITTEE.

GENERAL REVISION

OF

RAILWAY RATES AND CHARGES.

PROCEEDINGS OF MEETING

HELD ON

16TH JUNE, 1920.

FOURTEENTH DAY.

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MINISTRY OF TRANSPORT.

GENERAL REVISION OF RAILWAY RATES, TOLLS AND CHARGES.

Old Hall, Lincoln's Inn, W.C.2.
Tuesday, 11th May, 1920.

Terms of Reference:—

"The Minister having determined that a complete revision of the rates, fares, dues, tolls and other charges on the railways of the United Kingdom is necessary, the Committee are desired to advise and report at the earliest practicable date as to:—

"(1) The principles which should govern the fixing of tolls, rates and charges for the carriage of merchandise by freight and passenger train and for other services.

"(2) The classification of merchandise traffic, and the particular rates, charges and tolls to be charged thereon and for the services rendered by the Railways.

"(3) The rates and charges to be charged for parcels, perishable merchandise and other traffic conveyed by passenger train, or similar service, including special services in connection with such traffic."

The evidence is issued in uncorrected form, and any inaccuracies should be notified to the Secretary, Rates Advisory Committee, Ministry of Transport, Gwydyr House, Whitehall, S.W.1.

MINISTRY OF TRANSPORT.

RATES ADVISORY COMMITTEE.

GENERAL REVISION OF RATES AND RAILWAY CHARGES.

PROCEEDINGS OF MEETING

HELD ON

16TH JUNE, 1920.

PRESENT :—

F. GORE-BROWNE, ESQ., K.C. (*Chairman*).
SIR WALTER W. BERRY, K.B.E.
W. A. JEPSON, ESQ.
L. A. MARTIN, ESQ.
W. M. ACWORTH, ESQ.
S. J. PAGE, ESQ. (*Secretary*).

FOURTEENTH DAY.

MR. J. H. BALFOUR BROWNE, K.C., appeared for The Federation of British Industries.

SIR JOHN SIMON, K.C., SIR LYNDEN MACASSEY, K.C., MR. BARRINGTON WARD, K.C., and MR. BRUCE THOMAS appeared for the Railway Companies' Association.

MR. ROWLAND WHITEHEAD, K.C., and MR. G. W. BAILEY appeared for the St. Helens and Widnes Manufacturers and Traders.

MR. ROWLAND WHITEHEAD, K.C., and MR. EDWIN CLEMENTS appeared for the Iron and Steel Federation.

MR. G. H. HEAD appeared for the Livestock Traders' Association (instructed by Messrs. Maxwell, Brownjohn & Co.).

MR. JACQUES ABADY (instructed by Sir Thomas Ratcliffe-Ellis) appeared for the Mining Association of Great Britain.

SIR ROBERT ASKE (instructed by Messrs. Botterell & Roche and Hill Dickinson & Co.) appeared for the Chamber of Shipping of the United Kingdom and Liverpool Steamship Owners' Association.

MR. F. G. THOMAS (instructed by Messrs. Francis & Calder) appeared for the Association of British Chambers of Commerce.

MR. W. A. WARDLEY (instructed by Messrs. Adler & Perowne) appeared for the Association of Railways.

MR. EDWIN CLEMENTS also appeared for the Mansion House Association on Railway and Canal Traffic.

MR. JACQUES ABADY (instructed by Messrs. White and Leonard) appeared for the Federated Home-Grown Timber Merchants' Associations.

MR. F. D. MORTON (instructed by Messrs. Bower, Cotton and Bower) appeared for the London Central Markets' Association.

MR. A. MOON (instructed by Bernard Wicks, agent for Mr. H. A. Sanders, Chesterfield) appeared for the Association of Smaller Railway Companies.

Mr. Rowland Whitehead: I have to present to you, Sir, the case of the St. Helen's and Widnes traders. They are engaged in the heavy chemical trades of the United Kingdom. At St. Helen's and Widnes you have the United Alkali Company, probably the largest manufacturers in the Kingdom, and they have several large works. You have important glass manufacturers, of whom Messrs. Pilkington Brothers are, I believe, the largest in the Kingdom. You have also copper production works, and large soap works. In addition to those industries I represent also the two corporations of St. Helen's and Widnes who are interested in the continued prosperity of the communities over which they exercise control. These important industries are apprehensive lest, in the endeavour to secure something like uniformity of system in the railway charges, the statutory rights and privileges for which their predecessors bargained some 50 or 60 years ago should either be swept aside or modified to their detriment. They are all the more apprehensive because—I will not elaborate this point to-day—in the scheme of flat rate and percentage additions which was suggested by this Committee and adopted by the Ministry of Transport, they are in fact very hardly hit in the percentage of increase on their charges which the scheme adopted produced. I will not elaborate that point now, but it makes them all the more anxious that in any revision of charges of a permanent nature they should not come under any such modified scheme as that. The history of the matter is this: Comparatively early in the nineteenth century the traders of St. Helen's and Widnes were desirous of having cheap communication between the town of St. Helen's and the ports on the Mersey—they were then engaged in these same industries, glass, copper, and chemical trades. Those are trades which depend very largely indeed

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for their prosperity upon getting cheap imports of their raw materials. I will take one particular thing by way of illustration and it will do for the rest. Take sulphuric acid which is one of the bases of many industries in the world. That is one of the articles which they produce. It is manufactured principally from pyrites imported from Spain at the port of Garston, and then taken over the railway in question—which I will mention in a moment—to St. Helen's or Widnes as the case may be. They obtained power to construct a local railway, and to construct docks on the Mersey at Widnes and Garston. May I just indicate the geographical position? If you imagine, Sir, that you are seated for the moment at St. Helen's, there was a line of railway constructed from St. Helen's coming down to Widnes, a port on the River Mersey there, the line then ran off to Warrington in that direction, and also ran in this direction to Garston, another port on the Mersey. and Liverpool being over there. (*Indicating.*) They enjoyed low rates, and in 1864 the London & North Western Company for very good reasons desired to absorb that railway and take it over and make it part of their general line. An Act of Parliament was passed authorising that to be done, to which I will now refer. It was called the St. Helen's Canal and Railway Transfer Act, 1864. The general effect of the Act was to make the St. Helen's Railway a part under the London & North Western system, and to transfer the dock undertakings to that company. In connexion with that transfer the then traders secured as part of the consideration, really for the transfer of the railway to the London & North Western Railway Company, certain special toll and rates clauses to which I will refer—Sections 12, 13, 14 and 17 of the Act. Section 12, to put it shortly, says that the tolls are to be the same, speaking generally, on the St. Helen's as on the London & North Western system. Section 13 enacts a special scale of charges for the commodities in which the locality and these industries were specially interested. It is not a very long section and perhaps it would be convenient if I read it.

Mr. Jepson: They are reproduced in the Board of Trade book.

Mr. Rowland Whitehead: I was not aware of that.

Mr. Acworth: It is page 189.

Mr. Rowland Whitehead: I am obliged to you.

Mr. Acworth: Will you tell us how far it is from St. Helen's to Widnes Dock and Garston respectively?

Mr. Rowland Whitehead: It is 7½ miles to Widnes, and about 15 miles to Garston.

Chairman: Do you say that Widnes is on the Mersey?

Mr. Rowland Whitehad: Yes, it is on the Mersey. There is a small dock there.

Sir John Simon: I do not know whether you would care to have it any more accurately, but I have it here. From St. Helen's to Widnes dock is eight miles three chains; from St. Helen's to Garston dock is fifteen miles thirty-seven chains.

Mr. Rowland Whitehead: Mr. Acworth was good enough to say that on page 189 of the Board of Trade book there are set out the particular rates contained in Sections 12 and 13 of the St. Helens Canal and Railway Transfer Act, 1864. You will see there that Section 13 says, "Provided also that it shall not be lawful for the London and North Western Railway Company to demand or receive any greater toll, rate, or charge than the following in respect of the matters hereinafter stated:—For stone, sand, clay, slates, bricks and limestone conveyed to and from St. Helens and Widnes Docks, 1*s.* 2*d.* per ton, and if conveyed between St. Helens and Garston Dock, 1*s.* 8*d.* per ton, which charges of 1*s.* 2*d.* and 1*s.* 8*d.* respectively shall include" (this is a very important point) "dock dues, receiving from the ship and loading on the wagons, or the unloading from the wagons and delivery to the ship, and also the use of wagons." Then the next paragraph deals with a different series of articles—pyrites, manganese, copper ore, and so on, and fixes different rates; but the principle of those rates is again the same, that they include the dock dues, receiving from the ship and loading on the wagons, and so forth. The next paragraph is, "For all traffic conveyed between Widnes Dock, or that portion of the Sankey Canal between Westbank Locks and the first bridge crossing such canal, and the sidings of any works or manufactories in the township of Widnes, directly communicating with the lines of railway hereby transferred, eightpence per ton, or for traffic conveyed between Garston Dock and such sidings, one shilling and threepence per ton, which charge of eightpence and one shilling and threepence per ton respectively shall include dock dues, receiving from the ship and loading on the wagons, or the unloading from the wagons and delivery to the ship, and also the use of wagons." Then you come to another important clause, "For all traffic conveyed from the sidings of any works or manufactory in the township of Widnes directly communicating with the railways hereby transferred to the sidings of any other works or manufactory in the said township sixpence per ton." So that there is a very large interchange of traffic between one siding and another in these towns, manufacturers having one set of works at one point and another set at another point, and they take their material from one set of works to the other for this charge of sixpence. "For all merchandise other than coal or refuse conveyed from the works of one manufacturer having a siding directly communicating with the lines of the St. Helens Railway to those of any other manufacturer having a siding directly communicating with such lines, and not more than three miles distant by railway from such other siding, ninepence per ton, which charge shall include the use of wagons, but not porterage." I do not think I need read any of the others because it is mainly a question of principle. I think the paragraphs I have read indicate the points I wish to bring home to your minds. First of all, that the rates are low; secondly, that you have a special inter-siding rate; and thirdly, that the rates include the charges for the use of the docks, the services of the docks, and the use of the wagons. They are comprehensive rates of a special kind. Now that arrangement was caried out, the railways were transferred to the London and North Western Railway Company, and, of course, a transfer very much to the advantage of the London and North Western Railway Company. It was one of those good bargains to the advantage of both contracting parties, because the London and North Western Company, as it is quite clear, thereby gained first of all unity of control in respect of all this important manufacturing traffic and the local traffic incident to it; they also got for themselves a new railway port on the Mersey at Garston, which they were able to develop later, giving them direct communication with important industrial and coal areas in Lancashire, and gained the opportunity, which they developed later, of effecting a direct route *via* Runcorn and Liverpool over this important line. Those were important advantages to the railway company for which they were willing to bargain and give fair terms. The next stage in the matter was a slightly amending Act in 1865 which altered that charge of 8*d.* to 9*d.* By Section 72 of the London and North Western Railway (Additional Powers, England) Act, 1865, it declared this also——

Mr. Jepson: This is in the Board of Trade book also.

Mr. Rowland Whitehead: Yes, on page 191. It declares that, "The charge of sixpence per ton authorised to be made by the 13th Section of the St. Helens Canal and Railway Transfer Act, 1864, for all traffic conveyed from the siding of any works or manufactory in the township of Widnes, directly communicating with the railways by the said Act transferred, to the sidings of any other works or manufactory in the said township, shall in all cases include the use of wagons"—and lest there should be any doubt about that, that was specially enacted: "And notwithstanding anything in the said Act

contained, the company may lawfully demand and receive for traffic conveyed between Widnes Dock, or that portion of the Sankey Canal between Westbank Locks and the first bridge crossing such canal, and the sidings of any works or manufactories in the township of Widnes, directly communicating with the lines of railway transferred to them by the said Act, any sum not exceeding ninepence per ton, including dock dues, receiving from the ship and loading on the wagons, or the unloading from the wagons and delivery to the ship, and also the use of wagons." The next phase of the matter is indicated on the same page, 191, where you get Section 48 of the London and North Western Railway (New Works and Additional Powers) Act, 1867. That begins by re-enacting and incorporating the 13th, 17th, and 22nd Sections of the Act of 1864. The reason for this Act was this. The London and North Western Company having got control of the Garston Dock with its special tolls from Garston Dock as it existed in 1864 over the railways as they existed in 1864 to St. Helens, Widnes, or wherever it might be, came to Parliament and asked for power to improve the dock accommodation at Garston. The question then arose whether in the improved dock and the new lines of railway that would be laid down—whether the powers under the Act of 1864 would continue to apply or whether a new set of circumstances would arise which would involve their demolition.

Mr. Jepson: As a matter of fact, it was a new dock entirely.

Mr. Rowland Whitehead: I thought it was; but there is nothing to indicate that in the papers before me. The Act of 1867 extended those three sections to the new dock and the new railways then constructed. In 1888—this is only a matter of history but it explains something which comes later—the London and North Western Company again came before Parliament with a view of constructing a new dock at Garston. The matter did not reach the stage of an Act of Parliament but it was fully discussed before a Parliamentary Committee. Then in 1891 you come to the passing of the Rates and Charges Confirmation Act; and in the Act affecting the London and North Western Company, at page 9 of the Order, you find the clauses which preserve the special tolls and rates on the St. Helens Railway. It is page 109 of the Board of Trade book. It says, "Nothing in this Order shall affect the tolls, rates, dues and charges prescribed by the St. Helens Canal and Railway Transfer Act, 1864 (Sections 12, 13, and 14), the London and North Western Railway (Additional Powers, England) Act, 1865 (Section 72), and the London and North Western Railway (New Works and Additional Powers) Act, 1867 (Section 48), but the company may, in respect of the traffic there referred to, demand or take tolls, rates, dues, or charges prescribed by those enactments, and shall not demand or take any tolls, rates, dues, or charges in excess thereof. Provided further that nothing herein contained shall prejudice or affect any maximum rates or charges in respect of any new dock for the construction of which the Company may seek powers from Parliament." They had just been before Parliament with a view of having a new dock, and they wished to preserve their rights with regard to any future dock accommodation. My clients' point of view of that clause is, of course, this, that as late as 1891—and later as you will see—privileges which were bargained for and given them in 1864 were once again recognised by Parliament as being rightly theirs and to be preserved.

Mr. Asworth: Do you mind telling us this. Did that go by consent or was it argued either before Lord Balfour's Committee or before the Duke of Richmond.

Mr. Rowland Whitehead: I have asked my clients to search, but they have not been able to get access to the shorthand notes of what took place. They tell me they understand it was argued and discussed and inserted by the Committee.

Mr. Acworth: Which—by the Joint Committee?

Mr. Rowland Whitehead: So I am told.

Mr. Acworth: What happened before Lord Balfour's Inquiry?

Sir Walter Berry: A very full discussion, led by Dr. Hewitt.

Mr. Rowland Whitehead: I will try to find it.

Mr. Aeworth: Sir Walter Berry knows, I think.

Sir Walter Berry: I remember the personality of the gentleman who dealt with this Committee before Lord Balfour and Sir Courtenay Boyle. What you tell us comes fresh to my mind. I was there and went through the business.

Mr. Rowland Whitehead: That we have not been able to discover. At all events, it appears in the Act of Parliament itself as again confirmed by the authority of Parliament. The next phase was a Bill which came before Parliament in the year 1900. I need not trouble you with the details of that Bill now because it did not become an Act of Parliament; I refer to the matter in order to cite to you a decision which was come to by a Committee of the House of Lords to whom that Bill was referred. The decision of the Committee of the House of Lords was this. After they had gone at some length into the history of this St. Helens undertaking the Committee declared this: "The Committee are of opinion that the Preamble is proved. The Committee are also of opinion that the preferential rates as set forth in the agreement of 1864"—(that means the Act of 1864)—"must be considered and treated as part of the consideration paid by the London and North Western Railway for the acquisition of the St. Helens Canal and Railway. They are also of opinion that the provision as to preferential rates contained in the said agreement, but nothing in addition shall apply to the docks and works to be constructed under the provisions of this Bill of 1900 as if the said docks and works had formed part of the undertaking of the London and North Western Company at the date of the passing of the Transfer Act of 1864."

Chairman: How did they arrive at that?

Mr. Rowland Whitehead: There was evidence before them. Sir Frederick Harrison was at that time, I think, the goods manager, or, at all events, one of the responsible officials, of the London and North Western Company. He gave evidence and he was asked this: "(*Q*) Of course, in 1864 they were acquiring a comparatively private undertaking?—(*A*) Yes. (*Q*) And part of the price they paid for that undertaking was giving in regard to its owners certain privileges.—(*A*) Certainly. (*Q*) Whether Parliament would do it now I do not pretend to say, but at all events that was the case then—(*A*) Yes."

Chairman: They were not only to have the privilege granted on that occasion, but further privileges in respect of further works.

Mr. Rowland Whitehead: That was the intention of the Committee.

Chairman: On what did they base that ruling? If you merely put it on consideration that would be a wrong deduction, would it not?

Mr. Rowland Whitehead: I suppose when you have a big undertaking it is very difficult in practice to distinguish between one part of it and another part. They proposed that the preferential rates of 1864 should apply to the extensions then contemplated.

Chairman: You are not able to suggest any further reason than we have had?

Mr. Rowland Whitehead: It is based on the history.

Chairman: The history is all against it; it is that the Widnes people bought a certain concession at a certain price. That is a recommendation that they should get more than they bargained for, that the price should be extended. That is the history.

Mr. Rowland Whitehead: The Committee certainly regarded it as having been extended, no doubt, in 1867, and then in operation, and they thought it was proper—it was not carried at that stage, therefore I will not trouble you any further with the evidence—they thought it proper that there should be a further extension to include new works. In 1902 there was a further Act—the London and North Western Railway Act, 1902—for empowering the London and North Western Railway Company to construct addi-

16 *June*, 1920.] MR. ROWLAND WHITEHEAD. [*Continued.*

tional dock works at Garston, and for conferring further powers on that company in addition to their undertakings, and so forth. By Section 24 of that Act a dock rate of 4d. per ton upon the registered tonnage was authorised in respect of the new dock. Then Section 25 was in these terms: "The 15th, 17th, and 22nd Sections of the St. Helens Canal and Railway Transfer Act of 1864 are incorporated with and form part of this Act, and the expression 'Garston Dock' therein used shall hereafter comprise the new dock by this authorised, and the expressions 'dock dues' and 'charge for use of the dock' therein also used shall comprise the charges authorised by the London and North Western Railway (New Works and Additional Powers) Act, 1867, Schedule C (Dock Rates on Goods), which charges are by this Act made applicable to the proposed new dock and the several expressions in the said sections used to describe the railways by the said Act of 1864 transferred and the sidings connected therewith shall comprise the then existing St. Helens railways and all railways, tramways and sidings in connection with the dock authorised by the Act of 1867 and with the dock hereby authorised and nothing in this Act contained shall be taken to authorise the company to demand or receive any toll rate or charge in respect of any of the matters in the said sections mentioned so far as regards the dock hereby authorised other than the maximum tolls, rates and charges authorised by the said sections"—this is a new point—"together with the dock rates upon vessels authorised by the preceding section of this Act the marginal note of which is 'dock rate.'" That is the 4d. dock rate. So that they did not get intact the old scheme of rates and charges there, but they got the old scheme of rates and charges extended to the new dock subject to that extra dock rate of 4d.

Mr. Jepson: Was not there a similar provision in the 1867 Act, that when the old powers were extended to the 1867 Act they had to pay dock dues on vessels?

Mr. Rowland Whitehead: I do not so read it. I understand that under the 1867 Act the rates of 1864 are extended to the new dock intact.

Mr. Jepson: I think that is right. Mr. Acworth calls attention to it that in 1867 they got them applied with the addition of 2d. per ton on the register of the vessel, and when the 1902 dock was authorised they got them extended with an addition of 4d. per ton on the registered tonnage of the vessels using the new dock. So that each time there was a sort of bargain.

Mr. Rowland Whitehead: There was a 2d. dock rate as I remember, but I take it to be in addition to the inclusive dock and railway rates. So I read it. The reason why I have referred at some length to those provisions is this. It is clear, I submit, that the rates in question on which the trade as St. Helens and Widnes has been built up are not obsolete and ancient history, but they are rates which, having been given and conceded as a result of a bargain some 50 or 60 years ago, have been brought up in review before Parliament from time to time right down to as late as the year 1902, and on each occasion they have been indirectly (as it were) confirmed; because they have been either re-enacted or extended with modifications, and so to speak the historic statutory position of the St. Helens and Widnes traders has throughout that time been preserved. They are not some musty old obsolete rates which can be lightly set aside in designing a new uniform scale. They are real live rates upon which an industry has been built up, and have been preserved not *per incuriam* because Parliament has not been engaged in revising old Statutes, but preserved consciously and deliberately by Parliament in enactments from time to time. The question theu is this, whether it would be just and right in view of the temporary circumstances under which railway traffic now has to be conducted that Parliament, or some Minister representing Parliament, should set aside one part of a bargain which one of the contracting parties now finds inconvenient or burdensome.

Chairman: Upon that I want to ask you a question. Who were the contracting parties in 1864? The London and North Western on the one side—who on the other?

Mr. Rowland Whitehead: No doubt the contracting parties were the then existing shareholders of the St. Helens and Widnes undertaking. But whilst that is true in a technical scnse, I am told that the gentlemen who were theu controlling that railway were in fact in the main the traders and those interested in these industries. Therefore, although technically they were different in fact they were to a large extent the same individuals, and when these provisions were inserted in the Act of Parliament it was the same men, the traders, who secured the rights in favour of themselves and their successors in business carrying on the industries at those works.

Chairman: Have you a map of the district, Mr. Bruce Thomas?

Sir John Simon: Yes, we have a map now.

Mr. Rowland Whitehead: I am told by my clients that so far as can be ascertained the traders who were then carrying on these businesses in 1864 were the descendants mainly, and representatives of those who constructed the line of railway in 1830. They were contracting it is true in a double capacity as shareholders, but they were none the less traders for all that, and they were trading at that moment for the benefit of themselves as business men.

Chairman: There are always two sides to a question of this sort. One question is, is there a contract which in law cannot be overlooked, and the other is what is the general equity. On the question whether there is a contract it is material to know who were the parties; on the question of the general equity for the neighbourhood it may not be so. That is why I asked the question.

Mr. Acworth: Can you give us the marginal notes of Sections 13 and 14?

Sir John Simon: I do not think that when one reads the recitals of the 1864 Act, there can be any doubt as to who the parties were who made the arrangement. I think my friend will agree that the numerous recitals show clearly who were the bargaining parties in point of form. In point of form they were the St. Helens Canal and Railway Company of the one part and the London and North Western Railway of the other part. My friend will notice the recital in the middle of the next page, "By an Act of 1860 the St. Helens Company are required to grant to the London and North Western Railway Company a lease for 21 years of that portion of their undertaking which consists of the railway between Warrington and Garston, such lease being renewable and renewed on the same terms and conditions as between the two companies themselves indefinitely. . . ." So that we were already in the position that we had an indefinite usufruct of part of their undertaking. Then it goes on, "Whereas by other Statutes and by agreements there subsists between the uudertakings of the two companies a close connection for the purposes of traffic, and it would conduce to the public couvenience if the undertaking of the St. Helens Company were vested in the London and North Western Railway Company, and both the said companies are desirous that such an arrangement should take place upon the couditions hereinafter contained"—then there is the ordiuary recital that these objects cannot be secured without Parliamentary authority.

Mr. Rowland Whitehead: Of course that must be so. When you have two companies concerned it must be a contract and bargain between those two statutory entities.

Mr. Acworth: It might be that the marginal notes of the two sections might say, "For the protection of so-and-so."

Mr. Rowland Whitehead: It does not do that. The marginal note of Section 13 is, "Rates for Local Traffic;" and the marginal note of Section 14 is, "No charge for delivery to or taking from sidings." Of Section 15 it is, "London and North Western Company to provide wagons."

Mr. Acworth: Then, so to speak, you would be right in saying it is a public provision and not a definite protective clause for the benefit of individuals.

Mr. Rowland Whitehead: It is a public provision for the benefit of the local trade.

(Sir John Simon handed to the Committee a map of the district.)

Chairman: There is one point where you may get a standing as a contractor. When these other Bills were before Parliament did anyone on behalf of St. Helens appear and oppose them and get a Parliamentary bargain made?

Mr. Rowland Whitehead: In 1867?

Chairman: Yes; or 1891 or 1902?

Mr. Rowland Whitehead: In 1900, the Bill not carried into effect, the traders did appear before the Committee, and then an agreement was made which is embodied in the Act of 1902.

Chairman: Was it an agreement or a recommendation of the Committee?

Mr. Rowland Whitehead: I am told it was an agreement.

Chairman: And they withdrew their opposition accordingly?

Mr. Rowland Whitehead: There was no opposition in 1902, but there was in 1900.

Chairman: Did they withdraw their opposition on the basis of an agreement?

Mr. Jepson: Was it not the fact that the North Western withdrew the Bill in 1900 because the Committee wanted to put these powers upon them?

Mr. Rowland Whitehead: Yes, that was so.

Mr. Jepson: And then between 1900 and 1902 there was a bargain made between the North Western and the St. Helens traders which is embodied in the Act of 1902.

Mr. Rowland Whitehead: Yes. In answer to the Chairman's question, in 1902 the traders remained outside.

Chairman: Because they had got an agreement?

Mr. Rowland Whitehead: Yes.

Chairman: Was that agreement reduced into writing?

Mr. Rowland Whitehead: My learned friend Mr. Bailey, who is with me, says that nothing was put into writing.

Chairman: That there was a bargain in 1902 of course strengthens your case a great deal.

Mr. Rowland Whitehead: Yes; and that that bargain is represented by that Clause 25 in the Act of 1902. Then the point really is, as you have indicated to me, twofold. First of all, was there a bargain or contract in equity, whatever might be the form of the thing; secondly, whether the general equity of the case does not demand that these rates should be preserved. Assuming, as I must, that there was in substance a bargain and good consideration given in 1864, and subsequently developed, say, in 1902, the question arises whether it is right and just to set aside a part of a bargain, leaving the rest of the bargain intact. It is not a question where a bargain, as a whole, is to be set aside, having ceased to be applicable to new circumstances. This is a case where the North Western Railway Company, of course, retain to their own advantage all the general profit arising from the bargain, all those administrative and traffic advantages of having it in one's hand, or the advantages of controlling an important port, all the collateral advantages which Sir Alexander Butterworth admitted, arising from thriving communities growing up on the basis of rates then fixed, all those advantages of profit arising from transactions which are incident to such a community—all those advantages the North Western Company must, of course, obtain. Therefore, it is not a case where you can strike out a bargain as a whole and put the parties on their former footing. In these circumstances, I submit to you, with some confidence, that in all the circumstances it would not be just and fair to interfere with anything in the nature of a statutory bargain in that way. Now, is there anything special in this case which would justify departing from what one may call the normal thing. Do the equities of the case demand it? There, again, my submission is this. It is true, and we must admit it, that at the moment the expenses of carrying out this particular part of the bargain have increased so far as the railway companies are concerned, and that is a bargain which they did not foresee in 1864 or in 1902. Agreed. At the same time, you have to look at it also from the other point of view. In the course of the last 50 or 60 years the traders have invested enormous capital sums in constructing works and factories, sidings, and so forth, in and around Widnes and St. Helens. They have done so for this reason, that in consequence of the cheap rates for the import of their raw material through Garston or Widnes—mainly Garston—and the opportunity which they have of drawing a cheap coal supply from the South Lancashire coal fields in the neighbourhood of Wigan, they are in a good geographical position for carrying on their trade; and it is on the footing and the faith of these low rates that they have invested their capital and built up their big industries. It is not a point which requires elaboration, but it is a point of the greatest significance and importance, not only to the individual manufacturers who have to look forward to the time when more normal conditions of trade, foreign competition, and so forth, once more arise, but it is of enormous importance to the whole of the communities which have grown up round these industrial works, incidentally, inasmuch as they are engaged in basic trades like the manufacture of sulphuric acid and things of that kind which lie at the root of other trades, the prosperity and well-being of these particular industries is one of far greater importance than mere local importance.

Chairman: If there were a suggestion to put them in a different position relatively to their neighbours, what you say would have immense strength; but if you are contending that they should stand still while their neighbours have to bear an increase, which is already 60 per cent. and threatens to become 100 per cent., it is not quite so strong, is it?

Mr. Rowland Whitehead: I think you will find that it is extraordinarily difficult—perhaps at a later stage of this inquiry it may be necessary to point it out to you—by any system of flat or percentage rates to treat them relatively in the same way, having regard to the existence of these old and low charges. Let me give you one illustration to bring it home to your minds. When I read the sections, I referred to a particular inter-siding rate of 6d., and I told you that was an important matter in the carrying on of the industries as between different branches of the same industrial undertaking. Take, for instance, that 6d. rate. Under the flat rate addition and percentage addition, one of the 6d. rates become 1s. 10d.; that is to say, it has a percentage increase of 266 per cent.

Chairman: How does it become 1s. 10d.?

Mr. Rowland Whitehead: I think it is Class 1. You have first of all 60 per cent. increase, which is 9·6d., and then you have 1s. flat rate, making the total 1s. 9·6d., which is levelled up to 1s. 10d. Another illustration is the 9d. rate raised to 2s. 9d. Considerations of that kind make it difficult to put these people in the same relative position by any scheme of flat rate or percentage addition. I do not want to elaborate that point now because it does not really affect in one sense the broad principle as to whether you should interfere with a statutory bargain; but at a later stage, especially if my friends place before you some discussion with regard to future and further addition, either by way of flat rate or percentage, my clients would like to deal with it when the whole scheme comes to be discussed. It is sufficient at this stage to indicate to you that it is not an easy problem to solve in practice to arrive at the same relative position. I think that I cannot put it higher than that; that first of all you have got what I submit is in substance a bargain in 1864, and a bargain which was confirmed and slightly extended and re-enacted really in 1902—a fresh bargain between the then traders and the railway company.

I submit further that, having regard to the very great importance of these industries, basic industries of a national character and basic also as involving the prosperity of very large communities in the districts of St. Helens and Widnes and elsewhere, it is a case where the equities you suggest, that these low rates should be preserved intact and without modification. That is my submission to you, and I hope that it will have weight with the Committee when they come to advise the Minister of Trausport.

Chairman: You do not tender us any evidence that these industries are suffering from grave depression at the present time, and that the increases since January 15 have made it difficult for them to carry on their businesses.

Mr. Rowland Whitehead: There is the question of competition with other traders. For example, in competition with people at Warrington we do find ourselves at a serious disadvantage.

Chairman: Taking the trade as a whole, are these traders in a desperate state and not able to pay any dividends, or are they paying dividends many times greater than they were before?

Mr. Rowland Whitehead: I believe that all traders are to-day living under abnormal circumstances. Again, most traders find some means of passing on extra charges.

Chairman: We know that all expenses are going up, and if everything is being cut as fine as possible to pick out one particular expense and to have other expenses moving would be a strong thing to do. If these people can pay double and treble wages, and a lot more for raw materials, there is not the same shock in having to pay a little more for transport.

Mr. Rowland Whitehead: So much depends on what is in the mind of the Transport Minister. Are we going to arrive, as a result of this Inquiry, at rates which are quasi-permanent rates? Then it would, I am told, in view of the fact that they are in direct competition with foreign manufacturers in normal times—I am told that any addition to these rates would be a very important factor in the prosperity of their businesses. I cannot put it higher than that. I asked the question particularly, and they told me that at the present time everything is abnormal; foreign competition does not exist to the same extent; therefore they are in a sense in a privileged position. But I submit that you must, if you are going to deal with a thing on anything like permanent lines, have regard to the permanent factor of these rates, and what I may call the normal condition of things which will necessarily arise when the English manufacturers get back to the old state of foreign competition.

Chairman: And you will take into account that sea freights are likely to remain up for a time too. Not at what they were, but——

Mr. Rowland Whitehead: In answer to that question, I am told that sea freights have come down within this last week.

Chairman: 30 per cent., I believe.

Mr. Rowland Whitehead: And not only that, but chemicals, which are the particular things I am talking about to-day, are actually being offered in Liverpool at a lower rate. Competition begins to touch us; therefore, I ask you not treat the problem as one which must be solved on temporary and passing conditions, but to have regard to the permanent factors, which must, I think, ultimately arise once more and be the dominating factors when they come to deal with their goods in the open markets of the world.

Mr. Acworth: I assume from the figures you have read that the traffic under the rates of 1864 will be at prcsent, and would be permanently an actual loss to the North-Western Railway. The North-Western Railway would be better off if that traffic were removed. In other words, that traffic would have to be carried at the expense of other people's traffic. Assume I am right in that. If that be so, how far do you claim that you should keep your 1864 rates—permanently, or that you should consent to some addition, or what?

Mr. Rowland Whitehead: I ask to preserve my 1864 rates permanently.

Mr. Acworth: As they were in 1864.

Mr. Rowland Whitehead: Yes, I ask for that, intact.

Mr. Acworth: That the charges that the Minister with special statutory power has put on temporarily shall be wiped out again?

Mr. Rowland Whitehead: Yes, that is my submission; and it is the only sure ground on which this Committee or the Minister could really attack this problem. You cannot by any system of relativity get equivalent results.

Chairman: If you are going upon contract you have certain grave difficulties in your way. If you are going upon equity it is not injudicious to suggest that you should have a rate far below any of your neighbours?

Mr. Rowland Whitehead: I think not. I must assume that the contention is right.

Chairman: If you put it on contract you have difficulty on technical grounds. If you say that you have an actual contract and you are entitled to stick to it, then it is open to anyone to say, "We will see whether you have a contract and whether you were a contracting party." If, on the other hand, you have a general equity arising out of all the circumstances, then you must look at the general equity and not at the letter of the contract.

Mr. Rowland Whitehead: I tried to put it on both grounds; and my submission is, that the general equity, looking to the importance of these industries and the expenditure of capital on the footing of these rates did lead to the conclusion that these rates should be preserved, apart from whether there is a tecnical contract or not.

Chairman: You will find every other trader in the country saying that he built his works on the faith of rates obtaining up to the beginning of the war, and he may say that his ought to be altered but not yours.

Mr. Rowland Whitehead: I do not put it in that way.

Chairman: I know you do not.

Mr. Rowland Whitehead: I say that the North-Western Railway Company have acquired and retained enormous advantages. I will not repeat what I have said on that—all the collateral advantages which come from the scheme of amalgamation; they also get their full rates from us and other people on the normal traffic.

Chairman: Has it occurred to you that every small railway which has been absorbed has practically the same case as you have; because when they were absorbed there was a set of maxima in force, and the terms of every absorbing Act must have in effect said that those maxima should apply to them; and, therefore, every trader on every part of a railway which has been absorbed could set up the same case; and as nearly the whole of the railways consist of absorbtions of other railways——

Mr. Rowland Whitehead: Although the traders technically were formed into the St. Helens Company, they were really the contracting parties.

Chairman: So in regard to a very large number of other subsidiary railways. One that springs to my mind at the moment is the Newbury and Didcot Railway, which the landowners in the neighbourhood originally constructed to open up their country Then it was taken over by the Great Western. I do not known on what terms, but presumably they were subjected to the same maxima as applied to the Great Western. Would they be entitled to come here and say, "When we were taken over we were taken over by an Act of Parliament which said the maxima were to be those on the Great Western, and therefore are not to be altered."

Mr. Rowland Whitehead: If that formed part of the consideration.

Chairman: Of course it did, because it appeared in the Act of Parliament.

Mr. Rowland Whitehead: I do not know the circumstances of that particular line; but my sub

mission is that, either on the footing of what I call the Parliamentary bargain of 1864, or 1902, or upon the necessities of the case—"the equities of the case," using your own words—it would not be just and right that you should not advise the Minister to retain the statutory privileges or rights—retain them intact—without modification and without absorbing this particular bit of line and its rates in a general scheme of a uniform scale.

Sir John Simon: I do not desire to occupy time in offering extended arguments, but perhaps there are one or two considerations, largely facts, you would like to have on the notes. I have here carefully worked out what the original authorised charge was in 1864 and how in fact that charge has been increased; first, because of the application of the Defence of the Realm Regulations; and, secondly, because of the Order of January 15th last; and I have got it contrasted with what the charge would be, taking conveyance only for the moment, assuming that the ordinary statutory charge was applied. Perhaps I might give you, at any rate, one instance but I have an instance that is wanted. If you take Class A traffic between St. Helens and Widnes Dock, as my friend Mr. Whitehead has pointed out, the Statute of 1864 provided that it should not be lawful for the company to demand or receive 1s. 2d. In fact, the company has been receiving more than 1s. 2d. for some time past, because the provision of the Defence of the Realm Regulation turned that 1s. 2d. into 1s. 6d. inasmuch as there is a dock charge in it. The Order, which came into operation in January last, turned the 1s. 6d. into 2s. 2d.; and even when the day comes that that long-lived female "D.O.R.A." is finally disposed of, the 2s. 2d. will still be 1s. 2d., applying your January Order. So that my friend's clients, although they had an Act of Parliament in 1864 which said it was not lawful to demand from them more than 1s. 2d., are now paying 2s. 2d., and even if D.O.R.A. were out of the way would, under your Order, pay 1s. 9d. I do not understand my friend to say that up to the present any bargain has been broken.

Mr. Rowland Whitehead: We are bound to submit to it.

Sir John Simon: We are all bound to submit to the fate which overtakes us. If you contrast that with the ordinary charging powers of the railway company, the distance from St. Helens to Widnes Dock is 8 miles 2 chains, taking the ordinary charge of ·95d. for nothing but conveyance and therefore excluding terminals of every sort, the charge at ·95d. would have been 7·84d., and with the addition of your Order of January last that would amount to 1s. 2d. So the contrast is 1s. 2d. on the ordinary rate of charge at this moment for conveyance and nothing but conveyance, to which would have to be added, first, the terminal charges; second, the dock dues; and, third, the provision of wagons. It is manifest, therefore, that that would produce on ordinary analogy, if everything were treated alike, a good deal more than is in fact being charged now. That is the situation in figures. Then I would like to point out this further fact. It will be for the Committee to say what they wish to have done; because, as has been already pointed out, my friend is really asking if this distinction is preserved, that someone else should make up the difference. But the broad point is if the Committee when they have thought the matter over are disposed to recommend the adoption of scales and tariffs, then really an application of this sort appears to be a very serious inroad into that principle. Those who advise me tell me that, broadly speaking, there might conceivably be exceptions for a commodity like coal. Their view is that the adoption of a system of scales and tariffs is not really consistent with all those exceptions of which this might be taken as a type. There are other cases. Take the Great Western taking over small railway companies. There are cases where a small railway company has been taken over and had its system of charges, some of which were higher and some of which were lower than the large absorbing company. But the truth is that if you are going to simplify you will have to simplify without regard to the claims of some particular applicant. Then there is one further fact which it is useful to have in mind. It is this. The exceptional advantage which my friend's clients would naturally like to retain is in any case an advantage which is limited to traffic that is local to the line. I mean supposing that such traffic were to start on this line but to go off, then they do not get any different treatment from anyone else; they come in in respect of the whole district as though they were not on the line at all. It is only because the traffic to which they are directing your attention is local traffic, which both begins and ends on this short stretch, that they get any different treatment from anyone else. Those are considerations in point of fact which we thought it was necessary to bring before you. I do not desire otherwise to argue the thing at any length at all. I think I heard my friend say—Mr. Bruce Thomas always keeps his ears open—he was claiming to pay in 1920 the same sum of money as that which was authorised as a maximum in 1864.

Mr. Jepson: Or after 1921, when the Minister's powers expire, that they should revert to the figures of 1864.

Sir John Simon: Yes. The industries he represents are so much up to date that I should be the last to suggest that they are to be regarded as the industries of our grandmothers.

Chairman: Is there any alternative between unifying them and throwing them back to the position of 1864?

Sir John Simon: Of course, there is always the theoretic alternative that you can have an artificial mileage. One knows that has sometimes been suggested, though usually for the purpose of bringing in a higher charge by charging an extra charge.

Chairman: Supposing one were to look at it from the point of view of what is called a business man, ignoring legal principles altogether, and merely stating what is fair and just, and what a reasonable man would say is fair and just, one would be rather sorry not to let people have favourable terms; but I think also a business man would say that it is ridiculous that they should have the 1864 terms. I am not speaking of what one ought to decide as a judge who is supposed to observe principles, but the general abstract view that a man says this is hard, or that is hard, not confining himself to district principles. I was wondering whether there was anything which they would be entitled to other than the 1864 principle?

Sir John Simon: You are as well able, and much better able to judge of that than I. I only just point out that in the end the Committee will have to decide whether it attaches importance to the idea of a scale or a tariff, which will have to have a general application for practical purposes for the purpose of calculation and subsequent quotations, or whether the business view will be something which will concede something, not necessarily outside, here and there; but, if so, we must get that something out of somebody else.

Chairman: No doubt, and no doubt it makes a difference that we are looking at it much more from the public side of the question than we should be doing in the case of any private Bills introduced by a railway company. I have no doubt in 1864, 1867, 1873, 1891, and 1902, Parliament, looking at these different people, said: "You can make your own bargain, and if you have made your bed you must lie upon it." But, looking at it from the public interest, one does not look at it quite in the same way.

Sir John Simon: I think that is a very just observation, if I may say so. We are really engaged in looking at the problem now as a whole from rather a different angle, and it being common ground that the produce of these charges is to amount to a

proper figure, you are right up against the proposition that what my friend is really asking for is to put something upon other people.

Chairman: Supposing there is to be a compulsory amalgamation of any railways, or supposing Parliament declares that there is to be compulsory grouping, and says Railway A is to be joined to Railway B; then if Railway C has an agreement with Railway A, that is to be forced upon Railway B, too. So an outside person whose history is not the same may be called upon to give effect to it. I do not know that it matters very much, but it would be forcing a bargain made between A and B upon C, who is compulsorily ordered to come in, and does not come in voluntarily. If C comes in and joins in the existing state of affairs, he takes it as he finds it; but if he is ordered to come in against his will he may say: "I ought to be heard as to what are the fair terms of bringing me in."

Sir John Simon: I am not very familiar myself with the course usually followed, and many who are here will be more familiar than I am, but my friend, Sir Lynden, tells me he thinks it would be a fair statement to say that the ordinary practice of a Parliamentary Committee, when you get the absorption of a small company by a large company, would be to leave the charging powers of the small company to be exercised over that line by the large one. You do not agree with that?

Mr. Acworth: I do not agree.

Sir John Simon: I do not know about it. It is plainly purely a question of public policy, and which is the right thing to do. My only point is, if it is desired, as I think traders say they desire, that we should get rid of anomalies—I am told there are 117 railway companies—it would seem in accordance with that line of reasoning better to simplify, even though it does involve a slightly different distribution of charge. So that it may be entirely plain, perhaps I may add this. I ascertained it for my own information, and possibly it is evident to the Committee. Though my friend has been speaking about statutory authorised charges, the distances are short here, and this is a case where the statutory authorised charge is the charge actually made; so that you do not get rid of this by saying you are going to sweep away the statutory maxima. It will mean what is the charge you are going to fix as a reasonable charge. I think that will be the real question ultimately.

Mr. Jepson: This is not an isolated case.

Sir John Simon: Far from it.

Mr. Jepson: It is only one case to which our attention has been called, but there are scores of cases of this kind throughout the country where the same argument might be used.

Sir John Simon: Yes; the Great Western tell me they have quite a number. I do not think in every case the argument will work out in the same way from the point of view of the interests of the railway company. There are many cases where by amalgamation they have got a higher power, and there it will be a question of gaining something.

Chairman: Talking of public policy, one must remember that Parliament in 1919 passed the Ministry of Transport Act, which by Section 3, Subclause E, says: "In the case of any undertaking of which possession is retained or taken by the Minister as aforesaid, any rates, fares, tolls, dues, and other charges directed by the Minister shall be deemed to be reasonable, and may, notwithstanding any agreement or statutory provisions limiting the amount of such charges or increases therein, be charged in respect of any undertaking during the period for which the Minister retains possession of such undertaking, and for a further period of 18 months after the expiration of the said period, or until fresh provision shall be made by Parliament with regard to the amount of any such rates, fares, tolls, dues, and other charges, whichever shall first happen." It appears to me they were definitely contemplating that Parliament would make fresh provisions as regards these rates and charges, and would not leave them at the figure fixed by agreement.

Sir John Simon: It does seem so.

Mr. Rowland Whitehead: I do not know whether you have in your mind the latter part of the Section, Sub-Clause 2, which is after what you have read, which says at the end: "And any person who, by virtue of any special statutory provision or agreement, is entitled to the benefit of any special rate, fare, toll, due, or other charge, and whose position relatively to other persons is prejudiced"——

Chairman: You observe the word "relatively."

Mr. Rowland Whitehead: That is the word you used yourself—"by any direction of the Minister altering such special charge, shall be entitled to receive such compensation as, in default of agreement, may be determined by the Railway and Canal Commission." It is quite true that by Sub-section 1 E the Minister of Transport has power temporarily to direct these special charges; but, at the same time, there are special statutory rights, and a right even to compensation is contemplated by Parliament simultaneously even during that temporary period.

Chairman: During that temporary period if it is done more than relatively, then there is compensation; but if it is done only relatively to other traders, I read Sub-section 2 as not giving any compensation. I was really referring to the last words of Subsection I, Sub-clause E, as showing that Parliament had contemplated revising agreements.

Sir John Simon: That is so.

Mr. Rowland Whitehead: I suppose it is so from the general terms.

Sir John Simon: The only other thing which occurs to me on the section you have referred to is what my friend has just referred to, but which no doubt has its importance because it is under Subsection (2) which begins: "Subject as aforesaid", and "as aforesaid" is the statutory right to pull these things to pieces and build them up differently.

Mr. Acworth: Would you say any person under these sections of the Act could go to the Ministry of Transport or the Railway and Canal Commission and demand compensation?

Mr. Rowland Whitehead: It is a very difficult problem. My clients had an interview with the Minister of Transport on that very question yesterday and tried to thrash out with him as to what the meaning of this particular provision was.

Mr. Acworth: It is not the function of the Minister of Transport to interpret an Act of Parliament.

Mr. Rowland Whitehead: No.

Mr. Acworth: Your clients at present are in fact paying much higher rates?

Mr. Rowland Whitehead: Yes. We are persons who are paying higher rates by reason of the decision of the Minister of Transport.

Mr. Acworth: The point I want to ask you is this. It is not a question of the Ministry of Transport. Your clients have not acted on the belief that they were persons who could sue under this clause?

Mr. Rowland Whitehead: No, we have not done so yet. That is quite true. But the Act only came into existence in January so far as the new scale of rates was concerned, but whether there is anybody who can do so or not, according to the interpretation of the Act, is a matter for future consideration, I think.

Mr. Acworth: They have not been so far advised that they had better get back the very large extra charges that they must be paying.

Mr. Rowland Whitehead: I do not know whether they have been advised about it at all.

Mr. Acworth: Not so far as you know?

Mr. Rowland Whitehead: No.

Chairman: Thank you. You have raised a difficult question for us, and we will consider it very carefully.

Sir John Simon: It is pointed out to me by a gentleman behind, and I am sorry I did not say it before, but perhaps I might put forward this consideration, which is one which ought to be mentioned

on this point, and it is convenient to mention it before you pass to a new matter. You observe the case that is made is not that, in the nature of things, the work that is done on this bit of railway is eheaper work exeept that it is in large bulk. If you were to imagine that this St. Helens eompany existed now, and was the only eompany you were thinking about, and you simply had to eonsider at what level must we fix its rates and charges in order that it may maintain itself, there is no reason to suppose that you would fix them at any different rate than the rate which you will fix for a number. That seems to be a fair consideration to bear in mind.

Mr. Jepson: We got that from the Iron and Steel Trades' witnesses. They admitted that would be so, subject to any legal liability of the railway company under the Ministry of Transport Act.

Chairman: The next ease is the ease of the Central Chamber of Agriculture.

MR. WILLIAM GEORGE LOBJOIT, called.

Witness: I represent the Central Chamber of Agrieulture, the National Farmers' Union and the Chamber of Horticulture. The Central Chamber of Agrieulture have sent in their statement in a letter in reply to the Minister of Transport's letter. One paragraph of it gives the general view of the Chamber of Horticulture. Your Committee think that, subject to the neeessary modifications, the present system of rates and eharges should be continued, and they generally approve the provisions of the Railway and Canal Traffic Bill (No. 29) of 1919, as that measure provides for such modifications. I am asked to emphasize four points. First of all, on the question of the tribunal, the Associations I represent are in accord with the general prineiples laid down by Mr. Balfour Browne on the first day. There has been a consultation between the Mansion House Association and the Federation of British Industries who have arrived at an agreement upon this matter, the details of which I would rather leave to Mr. Clements. I am asked to say that, generally, the Associations I represent are in accord with that arrangement. Then I am asked to refer to the owners' risk rates. There we ask that the sender should have the choice of two rates—a rate in which the company takes all the risk, and a rate in which the sender takes the risk. We ask that there should be an alteration in the terms. We think that where the terms are restricted merely to negligence it relieves the company of the responsibility to exercise care through their servants and imposes an undue risk upon the sender. There also a formula has been agreed to between the Mansion House Association and the Federation of British Industries for both of those rates; the details of that, I believe, Mr. Clements has, and I would rather leave that to him. Then I am asked to refer to preferential treatment. All the associations I represent feel that there should be no preferential treatment of any persons anywhere. The next point is the question of goods trains. The Central Chamber of Agriculture ask that there should be adequate and expeditious goods train services provided, with better accommodation for perishable articles. I am asked to point out what we mean by adequate is that there shall be a published scheduled time table available to the senders and that the trains shall run to that time. What we mean by expeditious is a delivery of perishable agricultural produce in reasonable time to ensure delivery in fit condition as implied by the placing of such goods in a higher classification. As to better accommodation, what we mean is this.

4642. *Chairman*: We are advising upon rates only, and the sums to be charged. We cannot give directions to the railway companies to manage their business better than they do at present—I do not know whether it is good or bad. Do you propose that anything should be done in regard to the principle of rating to secure what you desire?—What we submit is, that we are already paying rates on a higher classification, and they imply service comparable to that classification. What we contend is, we are paying on a higher classification, but not getting the service which that higher classification implies.

4643. That is to say, you are paying a passenger rate for perishable goods?—Yes, on the goods service. We do not get our goods delivered. We pay a higher rate, and we do not get our goods delivered in time for market.

4644. Are you speaking of goods sent by passenger train?—No, by goods.

4645. By goods train?—Yes.

4646. Then you do not pay any higher rate than anybody else for goods sent by goods train?—Our goods are classified in the higher classification which involves a higher rate.

4647. Everybody in the same class as yourself pays the same rate and gets the same services?—Yes, but the point we want to urge is that our goods are particularly perishable. Grain, for instance, which is in the same classification, is not perishable.

4648. *Mr. Jepson*: What are the goods you speak of?—Fruit and vegetables.

4649. *Chairman*: Are you advocatiug that if you are left in the same class as grain is in you should have some advantage, or if you are put in a higher class thau grain you should have some more expeditious goods service established?—Yes.

4650. A more expeditious service than the ordinary goods service?—Well, if the whole goods service is made expeditious and run to scheduled time it will meet us, only that we would like an express goods service for perishable things.

4651. Would you be prepared to pay something extra for it?—Our coutention is that we are already paying for that in the higher classification.

4652. *Mr. Acworth*: What class are you speaking of specially?—Fruit and vegetables.

Mr. Acworth: In what class?

Sir Walter Berry: Apples are Class 1, blackberries, 2; cherries, 3; eranberries, 2; gooseberries, 20 cwt. lots, 1; grape-fruit, 2; grapes, 5; and so on.

4653. *Mr. Jepson*: You do not send grapes by goods train?—No.

4654. *Mr. Acworth*: Let us take apples in Class 1. Do you ask that apples in Class 1 should have a quicker transport than any other article in Class 1?—What we say is, that apples in Class 1 should have such a transit that they can get to their destination before they are unfit to eat.

4655. Do you say you ought to have given to you special speed which is not given to other articles in the same class which are paying the same rate?—No, what we say is this, if the times of the goods trains were scheduled and run to schedule, we could put our apples on the train and would know they were reaching their destination by a eertain time. At the present time that is not so.

4656. Do you suggest that it would be possible for a railway company to ruu all their goods trains on a schedule and tell the trader exactly when they are going to arrive?—I am sorry to say I am not versed in railway management.

4657. The point I am asking you is a question of prineiple. Are you asking that apples in Class 1 paying Class 1 rates should get a better and more prompt service than other articles in Class 1?—What I contend is, that when apples are accepted in Class 1, the service should be such as to get them to their destination before they are unfit to eat.

4658. *Sir Walter Berry*: I take it that you would not know of a case where apples were so delayed that they were useless when they arrived, although the market they were intended for may have been missed?—Apples are not the crucial example from our side, but eherries, plums and raspberries are.

4659. And, I take it, peas and vegetables which would sweat and spoil?—Vegetables, like lettuces and cabbages and peas, which would sweat.

4660. *Mr. Acworth*: If the railway company negligently postpone delivery of any article they are liable for damages. Do you ask that lettuces should be sent quicker than other articles paying the same rate?—Certainly, if it is not possible for it to be done under ordinary circumstances, then we ask there should be an express goods service for specially perishable produce?—At normal rates?

4661. We think it should be, but that is a matter for negotiation, I take it?

Mr. Jepson: Do you find any real difficulty now in the conveyance of vegetables, such things as cabbages, lettuces, and broccoli, and so on?—Yes.

4662. That they are not conveyed rapidly enough?—Yes, we have many serious complaints of their being unfit for consumption on arrival.

4663. You took those up with the railway companies concerned?—Yes.

4664. You do not really suggest there should be separate trains running for these things to a time-table, and the trains should run whether there is traffic offering or not?—We suggest that a trader should know when he puts such articles on the train that they can be got to a station by a certain time. He has to meet the market. If he does not meet the market, his goods are wasted.

4665. Do you usually send in truck loads?—Some senders do.

4666. Is your complaint with regard to truck loads or part truck loads?—With regard to both.

4667. *Chairman*: I can see you may have very great complaints from the management point of view, but it may be well—I do not know whether it is or not—I am not saying anything about how the railways are doing their business—that during the summer time fresh fruit is very greatly delayed and, accordingly, suffers damage, but that is not a rating question. It would be a management question, and a question whether or not the railway companies had been negligent. It might be perhaps that there should be an express service for which an extra extra payment was made, and that when goods were sent by that express service, then there should be a limited period of time within which they must be delivered. The traders have had all that put before them by the Ministry of Transport and they have turned it down. They said they were content with the present services, but they wanted them to keep the time they did before the War. If that is so, it is not a question to take up with the railway companies?—That is substantially our point.

4668. *Sir Walter Berry*: You are aware that Manchester to London have always had in the past an express goods as well as an ordinary goods service. For instance, Manchester goods intended for the London shopkeepers, if loaded in Manchester by a certain time of the afternoon, are here when the shops open in the morning for delivery. You would like something similar to that for the fruit trade?—Yes.

4669. Is that what you mean?—Yes.

4670. You realise that fruit is put on trucks at stations all over the country, and therefore the difficulty is very much greater than in the case of the big trade between London and Manchester, which probably provides a train load or two train loads every night?—Yes.

4671. There is a difficulty there, is there not?—Yes.

4672. Do you suggest any way by which that can be arranged? Is it that you would like these goods to be labelled "Express," and charged a slightly increased rate, or submit as you say to higher classification? I take it you think you are still paying a very high rate?—Yes.

4673. I think you are paying double now what the Manchester people pay for their goods, for instance, ton for ton in some cases. If you paid that, it would meet the case. Would you pay insurance to secure delivery in the market, giving the right to recover the value of your strawberries if they were not delivered when they were sent in time?—It would certainly be a good thing to pay insurance to insure delivery or insure responsibility on the part of the railway company. You would get over the difficulty in some measure of the part load you referred to by encouraging traders to combine in full truck-loads.

4674. *Mr. Jepson*: Have not the railway companies laid themselves out to encourage traders to combine and make truck-loads?—Yes, but the present uncertainty of delivery rather discounts that encouragement.

4675. Do you suggest there is not a proper service between Loudon and Manchester, a regular goods train service, by several companies every night between London and Manchester?—No, I was not referring to London and Manchester; I am referring now to the service from country districts into the centres.

4676. The real difficulty is collecting the stuff in these outlying stations in the country and getting it into London in time to catch the night goods train. They run down on the last goods train, and perhaps arrive rather late in Manchester or elsewhere?—The difficulty that touches us is they arrive in London and other centres too late for the market, and they are so deteriorated that they are unserviceable.

Mr. Jepson: I am afraid that is not quite within our purview.

4677. *Chairman*: I am afraid that is management and not rates. You must bring your pressure to bear upon the railway companies to get the stuff through?—Well, our contention is this. We are paying a rate which implies service and we do not get the service. Certainly the rates should not be increased without we have the service that is implied.

4678. *Chairman*: I think the best class for you would be Class 3, fruit, ripe, not hothouse: apricots, cherries, nectarines, raspberries and strawberries. Obviously, you are paying a substantial rate because that is in Class 3. There are some hundreds of other things which are in Class 3 and they have all got one single provision in regard to the rates they are to pay?—Yes.

4679. But we cannot very well recommend that one article should have greater facilities than another when they are paying the same rate?—As I have said, it would pay us to pay something for insurance, if that is the way to put it, if we could ensure the delivery of the goods in time for market in fresh condition.

4680. That again makes it a matter more of management and not so much of rates—what would be the fair express rates to pay from one centre to another? Would not that help you, if you wanted to put a truck-load of fruit on at a wayside station in Kent, because the difference of the possibility of getting forward a particular truck-load from one station to another must be very great?—Would not it be met by a percentage?

4681. *Chairman*: Would not it be covered by a certain percentage?

4682. *Mr. Jepson*: How do you suggest it should be done? Supposing you arrived at a percentage, say, 10 per cent., or 20 per cent., how do you think the railway companies would do it? Would not they then have to take your cwt. of cherries and put them on to a passenger train? If that is the course you suggest, you have it already open to you to send by passenger train at higher rates?—It is not a question of a cwt. of cherries. You have got truck-loads of cauliflowers and cabbages and peas.

4683. Supposing you were willing to pay 10 per cent. more, how do you suggest the railway company should get those to their destination quicker—put them on their passenger trains?—They could on the branch lines to get to the main line.

4684. Going to Manchester, for instance, you do not suggest they could put goods wagons on their passenger trains so as to provide a quick service. They must go on the ordinary goods trains in the

ordinary way, but, as you know, most of the railway companies do provide, when there is a seasonal traffic like the Kent hop traffic or strawberries from Hampshire, through trains to different destinations to meet this very traffic. I think, although they are called express goods, they are equal almost to express passenger speed, and they are carried at goods train rates?—That is fruit, but we want that for the ordinary traffic in vegetables, etc.

4685. *Sir Walter Berry:* Have not you got it in the same way already? You are aware, probably, if you take Sandwich on the South Eastern, or Canterbury on the Chatham, you have the market goods leaving in the summer season at a couple of hours earlier than the ordinary goods in the evening, picking up the perishable traffic and running straight into London with it, so that it may be in the Covent Garden market at three or four o'clock in the morning. That exists to-day, does it not?—Yes.

4686. What you want to protect your traders from is that if the companies, for any reason of their own, send that class of traffic which is highly classified by ordinary trains which come into London at later hours, with the result that the stuff is very much reduced in value before it can be delivered, you should get some compensation. Is that what you mean?—We would rather make sure that the goods got to London in a fit condition. We are always getting complaints about it.

4687. Is not it a fact to-day, under these goods rates, if these goods are delivered in London within the hours which would be considered a reasonable delivery for ordinary goods traffic, you have no redress?—Quite so.

4688. The only point, I take it, you wish the Chairman to bear in mind is that you think your traders are now paying sufficiently high rates to secure what you are not getting?—That is the point.

4689. Is not it a question of classification? If you are to be subject in the future to all these difficulties which you now suffer from, you can get the case met by appealing to this Court, or whatever Court will deal with it, for the remodelling of the classification?—We know the classification is entirely out-of-date and wants bringing up-to-date. Re-classification would assist in great measure.

4690. You want re-classification downwards, and I suppose the other side will want re-classification upwards?—Unquestionably.

4691. *Chairman:* I think we see your position then, and we must bear it in mind?—The only other point I want to urge is, if there are any other points brought up by the railway companies later on we should be allowed to appear again if we desire to meet them.

Chairman: Of course, if there is any point you wish to bring to our notice, you can always do it. It need not be done actually by hearing you, but it can be done in writing, or through Sir Walter Berry, who is a very good exponent of your case.

Cross-examined by MR. MORTON.

4692. I understood you to say that as to preferential rates there should be no preferential treatment of any person anywhere?—Yes.

4693. I take it by that you mean that no trader in fruit and vegetables should enjoy an exceptional rate as against any other trader?—Yes. What I mean is that Section 27 of the Railway and Canal Traffic Act of 1888 should be maintained and, if possible, strengthened where it says there shall be no difference in treatment for home and foreign merchandise in respect of the same or similar services.

4694. I take it that your contention is limited to the fruit and vegetable trade. You are not saying that, in no circumstances whatever, should any body of traders in any commodity have exceptional rates. That is rather outside what you came here to say?—I said preferential treatment. There are exceptional rates, and there may be reasons which do not make exceptional rates preferential treatment.

4695. What you really mean is undue preference, which is already forbidden by statute, and you think the statute should be strengthened?—We think the statute should be strengthened.

Cross-examined by Sir JOHN SIMON.

4696. I am anxious to follow you. You have just been referring the Committee to Section 27 of the Act of 1888, the terms of which are familiar to the Committee, and you said that you were in favour of maintaining it. You may assume that would be everybody's view, but you went on to say you were in favour, if possible, of its being strengthened. What do you mean quite by that? I do not follow it?—I mean that at present there are, notwithstanding this section, cases of preferential treatment. What we feel is that if possible it should be strengthened, so that there could not be preferential treatment.

4697. I should like to follow that out, and get your own view. As to that, do you agree, if traffic is brought in large quantities and well packed, that it is right that it should be carried at cheaper rates than if it is brought in small quantities and not well packed?—We do not object to that at all.

4698. You would accept that principle?—Absolutely.

4699. It is fundamental to all railway charges?—Yes.

4700. Then, let us suppose on the one hand, that trader A is liable to provide large quautities, truck loads at a time, running from point X to London, and that trader B is only able to provide, it may be, a cwt. every now and then from some wayside station to London, you would agree, would not you, that there is nothing that you can call preferential in the fact that the rate in the one case is lower than the rate in the other?—No, I advocate it.

4701. You agree that would be right?—Yes.

4702. You are aware that, as things stand, there is absolutely no difference between the rate that is charged for consignment in equal quantities and equally well packed as between one person and another?—Well, I should not care to assent to that altogether.

4703. Has your attention been directed to the Departmental Committee appointed by the Board of Agriculture and Fisheries to enquire and report whether preferential treatment is given by railway companies to foreign and colonial produce as compared with home, farm, dairy and market garden produce. You probably knew there was a careful enquiry?—That was the Committee of which Lord Jersey was Chairman?

4704. Yes. I do not know whether you happened to give evidence on it?—No, I did not give evidence. I did get a copy of the report.

4705. I see that the Committee began by circulating 290 chambers of agriculture, agricultural groups and societies, and 334 honorary agricultural correspondeuts appointed by the Board of Agriculture and Fisheries. They asked for evidence?—Yes.

4706. That would be a perfectly proper course I should think. Do you know that this Committee reported that the response to their invitation was very meagre?—I have a copy of the report, but I do not remember.

4707. Do you know they sat on 17 days and took the evidence of 27 witnesses?—I assume so, if you say so.

4708. A number of gentlomen came forward and gave, in great detail, their views. The Scottish case was gone into, and what one may call the preferential

case, and also the cases affecting the railway companies having *termini* in London?—Yes.

Mr. Major: May I ask if that is known as the Onslow Report?

4709. *Sir John Simon*: It is the same thing. It may be known at that, because Lord Onslow was at that time President of the Board of Agriculture and Fisheries, but it is usually called the Lord Jersey Committee. We want to get the facts about it. You do not suggest that that Committee was not a Committee well qualified to ascertain the facts and gave everybody an opportunity of bringing them?—No; I do not.

Chairman: What year was it?

4710. *Sir John Simon*: In 1906. Mr. George Lambert, a member of it, whom many of us know as a very prominent, and indeed, emphatic agriculturalist, was on it with a number of other gentlemen. Just let me call attention to what happened. First of all, on the question of undue preference I will give you what the Committee say. The Committee found that the evidence did not establish the existence of any such undue preference at all?—Yes, I remember that.

4711. That is on page 12. Then on page 11, the Committee pointed out: "The Committee recognise that inasmuch as lower or so-called preferential rates and greater facilities are accorded to produce, whether home or foreign, presented in certain volume with certain regularity and in certain shape, and in so far as produce so presented is almost entirely foreign and colonial, these lower or preferential rates and greater facilities do, in practice, constitute preference or advantage to foreign and colonial produce." They give this example:—"A is a port, C is a market, B is an agricultural station half-way between A and C. There are in use rates under which the local trader at B sees foreign and colonial produce in large quantities conveyed from A to C on terms better than he can command for small quantities from B to C." I just want to understand this. Is it your view that Parliament ought to legislate to prevent that?—No.

4712. Then we are agreed. The Committee goes on: "From his point of view this is Preference, and accounts for the widespread feeling of grievance which led to the appointment of this Committee." Then says the Committee: "This *primâ facie* Preference is justified and explained by the railway companies, on the grounds of greater bulk, more constant and regular supply, and better packing of the foreign and colonial consignments; of the lessened cost, therefore, of dealing with them, and also of the undeniable fact that, in many cases, the competition of water transit is so severe that, unless they have the rates which now prevail, this traffic would equally go to its destination, and would equally compete with home produce in the market, but that the profit of carrying it would go into hands other than theirs, and so the power of spending on the development of their business would be lessened, to the general detriment of the British public." We ought to appreciate that at the moment the stress of water competition in some cases may be lessened. That is presumably temporary. Subject to that, that is, is not it, a fair statement of the reasons which that Committee had before it?—Yes, but the point is this: We suggest it would be fair to charge the same rate for the land journey, say, from Folkestone to London, but not to make the cost of the land journey less for foreign produce—you are referring to foreign produce?

4713. If you please.—By crediting the sea journey.

4714. Do let us follow this. There cannot be any doubt whatever as to what is the ordinary position under the Act of Parliament. Section 27, which is the Section which prohibits undue preference, does pick out your case, and says it is not enough that the railway company should avoid undue preference, because, apart from any question as to whether it is undue, the Section says: "No railway company shall make, nor shall the Court, or the Commissioners, sanction any difference in the tolls, rates, or charges made for, or any difference in the treatment, of home and foreign merchandise, in respect of the same or similar services."—Yes.

4715. You can hardly have stronger words?—But the railway rates, of course, have not been divided up so that we can see what is the charge for the sea portion and what is the charge for the land portion.

4716. For the moment I am simply saying that I cannot imagine—I do not know whether you can—any stronger words than those words. I will show in a moment what has happened under them?—I agree.

4717. Do you know that in 40 or 50 years, both before and after this, there has been only one case in which an attempt has been made to prove that that law is not complied with?—I assume you are right, Sir John.

4718. The Committee reported that fact?—Yes.

4719. That was true down to this Committee, but I think there has been one since. Just follow this. The agricultural interest of this country—which is something that the railway companies want to maintain, like everybody else, I hope.—I am glad to hear it.

4720. I am sure they do; they have no interest to the contrary, the agricultural interest is entitled to come in the form of any association it pleases and fight the grossest case it can find in the Commission Court, is not it?—Yes.

4721. Why has not it done it?—Well, I am afraid there are two reasons; one is the extraordinary cost of fighting anything in the Railway and Canal Commission Court. That is one reason why a great many cases are not brought that otherwise would be brought. I am afraid the other reason is that the agricultural interests have not been sufficiently organised hitherto.

4722. There I am entirely in sympathy with you. Let your industry be organised; but really you do not suggest that the Central Chamber of Agriculture or any other great organisation is unable to come and present a case. It can do it if it likes to do so without counsel. In any case it has not got to pay anything to the railway company. It can go and present its case in the Commissioners' Court?—It would not be a thing for the Central Chamber to do. It is not established for that sort of thing at all. It would not be possible under its constitution to do it.

4723. There is an express provision in the law that any association of traders may go and present a case to the Commissioners' Court without having to prove that the association as an association was suffering under any special injury—it is any Chamber of Commerce, or any Chamber of Agriculture. You appreciate the railway companies' point of view? Do not think that, speaking for the railway companies, we do not want to have your help and do not want to do justice, but one must try to find out the facts. Would you notice this further thing. The case, and the only case which has been brought, was ascertained when it was brought to be brought in the interests of a London dock company. Did you know that?—I did not know that.

4724. It is to be found in the judgment of the Judges. It was put forward as though it was a complaint by British agriculturists, and it turned out to be an effort by a London dock company to secure that traffic, which was then landed at Southampton and brought on the London and South Western Railway, should not go by railway, but should go round by sea. Do you think that was of any assistance to British agriculture?—No, I should say it was not.

4725. Do you agree that it is perfectly right that there should be the same charge in the same circumstances to home and foreign and colonial produce?—Yes.

4726. You are not asking for what some people call protection in that respect?—No.

4727. Therefore the question simply comes to be whether or not the railway companies do make the same charge in the same circumstances?—Yes.

4728. You further agree that it is quite right that the rates should be cheaper if the commodity comes in bulk as compared with if it is brought in small quantities?—Yes.

4729. The evidence was very simple before this Committee. One instance struck me very much. It does not happen to be the particular commodity you have been speaking of; but it is an illustration to show what I mean. It is on page 5. Do you know the Great Eastern Railway produced detailed figures to show how they dealt with poultry, and they showed this: "That the poultry from Italy loaded on the average 2 tons 4 cwt. per truck, and the meat from Denmark (about 4,000 tons a year) loaded nearly 3 tons per truck, and bacon, of which 50,000 to 55,000 tons per annum were sent as part of an arrangement in connection with the carrying of Danish meat, loaded about 7 tons per truck." Then they pointed out in contrast with that, that the quantity of meat, beef, mutton, and pork, sent from the whole of the Eastern Counties to London in a week showed a total weight of 77 tons from 113 different stations in 282 trucks; there were 561 consignments and that 483 of those were of 5 cwts. or under. They pointed out that it was impossible for the railway companies to take traffic in that shape at the same rate as you should charge for truck loads?—Yes.

4730. That you agree with?—I agree.

4731. Do not you think that the real thing is for the agricultural interest, as you say, to secure that their traffic is so tendered to the railway company that they get the advantage of bulk rates?—So far as practicable, yes.

4732. Have you any other suggestion to make as to the strengthening of the proviso at the end of Section 27?—No, I am afraid I cannot make any suggestion.

Sir Walter Berry: You referred to a case which was of more interest to the docks than to the agriculturists.

Sir John Simon: Is not it so?

Sir Walter Berry: You are referring to the Southampton case of undue preference?

Sir John Simon: Yes.

Sir Walter Berry: The case was fought by the agriculturists.

Sir John Simon: I think it was the Mansion House Association.

Sir Walter Berry: It was fought in the interests of the agriculturists for this reason, that New York through the Southampton Docks were given through rates of £1 a ton to London for hops, hay and cheese; whereas the Petersfield farmer had to pay £1 a ton to get his produce into London. That is what the case was fought for.

Sir John Simon: May I ask whether your recollection confirms the statement of this Committee which is on page 12? I am not wishing to state anything myself, because I only want to get on to the Committee's view, which was this: "The remarkable fact is disclosed that during a period of fifty years only one case of alleged preferential treatment of foreign over home traffic has been submitted for adjudication. That case was taken before the Railway and Canal Commission in 1895 by the Mansion House Association on Railway and Canal Traffic against the London and South Western Railway Company in respect of various descriptions of agricultural produce conveyed from Southampton Docks to London. It will be seen from the history of the case given in the Memorandum that the Judge, in giving judgment, pointed out that though the case was nominally brought by an association of traders, it was really launched and maintained by a London dock company with the object of diverting the traffic from the railway *via* Southampton in order that it should come direct by sea to the London Docks. The contention raised by the applicants, and which was dismissed by the Railway and Canal Commission, was that in the case of home as against foreign merchandise the provisions of Sub-section 2 of Section 27 of the Railway and Canal Traffic Act, 1888, altogether forbids any difference in charges. This contention has also been raised in the evidence taken by the Committee. One witness urged that foreign traffic was not entitled by law to the same concessions as home traffic in respect of larger consignments, better loading per truck, greater regularity of consignments, &c." This witness says, "I am not making this contention at all," and another witness considered "that on the ground of prejudicial effect on the home producer the railway company were not justified in quoting lower rates for foreign produce, because better truck loads and better train loads made it commercially proper to do so; in that sense he admitted he was a protectionist." Again, that is a perfectly logical view, but not the view taken by this witness: "The quotations given in the memorandum from the judgments of Mr. Justice Collins and Lord Cobham show that these Commissioners most emphatically rejected this view and commented upon the momentous consequences which would ensue from its adoption, and considered that if it represented the intention of Parliament the intention would have been clearly expressed in the section. The object of the section, in the opinion of the former, 'was to level differences, not to create arbitrary inequalities, between the treatment of home and foreign merchandise, and I can see no reason or principle in leaving out of account the fact of a rival route by rail or water from the point of departure in this country to the point of arrival, in the case of goods coming from abroad, and taking it into account as it clearly may be taken into account where the comparison is between the goods only.'" That is what the report here says, which is signed by the different members of the Committee.

Sir Walter Berry: Thank you. I understand that the agriculturalists at that time got a substantial advantage through that case having been fought, but I did not know that the Court had found out where they got their money from to fight it.

Sir John Simon: I do not know anything at all about that. I am not in the least complaining of it. The agriculturalists were perfectly right to come; but I am only pointing out we have had a case for what is called strengthening Section 27 which perhaps at first blush may look as though it is in the interests of British agriculture, but it may turn out only to assist steamship companies against railway companies. That is all I mean. It is a point to be borne in mind.

Mr. Acworth: I can help you a little with my recollection of that case. I was in that case and there is no question that it came out that the Mansion House Association were the nominal plaintiffs, but in fact the money was found by the East and West India Dock Company.

Sir John Simon: You do not understand me to be complaining of it.

Mr. Acworth: Not in the least.

Sir Walter Berry: I do not think you should.

Mr. Acworth: There were one or two rates that were ordered to be altered.

Sir John Simon: Three, I think.

Mr. Acworth: But, substantially, the bulk of the charges were held to be all right. For instance, I remember a charge of bacon of 6s. from Southampton and about 15s. locally and that was not interfered with.

Mr. Clements: I think not. I have here the decision of the Commissioners. Perhaps I had better read it as it is very short.

Chairman: I do not think it matters. We have got it substantially before us.

Mr. Clements: Then I might mention fresh meat, hay, and hops; in respect of those three articles the railway company were held to have given an undue preference.

Sir John Simon: I do not want to be misunderstood about this. It may very well be, and I hope it is so, if there has been a preference here, although cases have not actually been fought out in the Court, attention has been brought to cases, and they have

been rectified without the case ever getting to Court at all. I am sure we all hope that may happen in a proper case. But I am pointing out that, as a matter of fact, no case has ever been established in which the railway companies have not rectified it.

Mr. Clements: There is one point I should like to call attention to on the Report of Lord Jersey's Committee. I have not got the report before me, but I think you will find that the reference to the Committee was that they should inquire whether there was any preference.

(The witness withdrew.)

(Adjourned for a short time.)

MR. THOMAS MAJOR, Called.

4734. *Chairman*: Now we are ready to hear what you have to say?—I would like to say how much I personally regret that my Federation has not felt that it was necessary to employ Counsel to put our case, which I submit is of very great importance. I hope that my trade may not suffer on that account, and I am sure it will not. I represent the National Federation of the Fruit and Potato Trades' Association.

4735. *Sir Walter Berry*: You are a farmer as well as a fruit grower and a large trader in the London markets?—Yes, we are traders in the London markets, not fruit, but potato and vegetable growers. The organisation that I represent consists of 46 affiliated associations, whose membership is 4,258 and individual members 3,113, making a total of 7,697. It is estimated that approximately 33 per cent. of the members are growers as well as merchants. The evidence that I propose to give is in support of our replies to the questionnaire that the Minister of Transport kindly permitted us to make, and also the suggestion contained in that letter. One of the principal suggestions that was made by my Federation was this, if this Advisory Committee recommended increases on rates on the produce that we are interested in, that it should be subject to and conditional upon an efficient service for our perishable goods. If we are not to have that service, then we ask the Committee not to recommend an increase in our rates. We suggest that trains shall be run to scheduled times and at such times as shall be agreed upon between the railway companies and the merchants who deal in perishable produce, and if the goods which are consigned by this express goods service that we are asking for are not delivered at their destination within three hours of the scheduled time of the arrival of the train, then the obligation to pay for any loss sustained shall be placed upon the railway companies in the new Statute that we presume will be, of course, made. We submit that this is not a new principle that they shall pay. It is only an extension of the principle now in operation. This Committee, I think, recommended some little time ago that traders, if they kept trucks beyond a reasonable time, should pay a certain sum for two days' use. Beyond that period of time, a penal payment was made, and I think I am correct in stating that even Sir Eric Geddes has said it has had a marked effect on the traders in the release of the wagons. My Federation suggest that if an obligation was placed upon the railway company by a Statute, that if the goods which were consigned by the express service were not delivered within the given time, the time mentioned, it might possibly have the same effect upon them.

4736. *Mr. Acworth*: You spoke of an express service. Does that mean a service at ordinary goods rates or a service at some higher rate?—It depends what the ordinary goods rate is as to whether it ought to be more.

4737. Put it this way. I am looking here at the classification: vegetables and varnish are in the same class. Do you suggest that if varnish is not sent on a train run to scheduled time and if it turns up more than three hours late, the varnish owner is entitled to be compensated?—I would not like to speak for the varnish business.

Sir John Simon: That is right.

Chairman: I think they went on to find that there was no undue preference.

Mr. Clements: It was not within their province at the time, and they could not determine whether there was any undue preference.

Chairman: In effect they found there was nothing to complain of.

Mr. Clements: That may be so.

4733. *Chairman*: Is there anything more you wish to add?—No.

4738. I want you to tell us, Do you want that vegetables shall be better treated than other goods paying the same rate; that is the real point, is it not?—I will put it in this way, that fruit and vegetables are, to a very great extent, perishable, and the question, it appears to me, is this. Is the recommendation which we ask this Committee to make, that the increase of rate shall be dependent on the service, reasonable? Is our request reasonable; in other words, are the mass of the people to have their fruit and vegetables in a fresh and wholesome condition, or to have them, as they have them now, in a stale and semi-decomposed condition? The question is, Is it a reasonable request that we are making?

4739. Would you mind going back to the condition of things before the war? Do you want a better service than you had got then?—Yes, we do.

4740. Do you think, if you want a better service than the varnish gets, that you ought to pay more than the varnish?—I do not know whether the comparison is right or not.

4741. They stand in the same class in the classification and they would be charged the same rates. Assuming it is in Class 1, some vegetables are?—I shall come to it later, but we say that there needs to be a reclassification, so far as our goods are concerned, and whether varnish is a fair comparison I am not prepared to say.

4742. *Chairman*: Ought you to be put in a higher or lower class?—Most of them would have to come lower.

4743. Take any two articles you like to name—vegetables, take those in Class 3, which include apricots, cherries, strawberries; they ought to be in a lower class?—May I take two articles that we deal in ourselves?

4744. Yes.—Take potatoes as against strawberries or something of that description. Potatoes are in Class C. If you ask me whether I think old potatoes, that is, potatoes that are ripe, ought to have the same, or that it is necessary for them to have the same service as green vegetables or some kind of fruit, I say no at once, quite frankly. Old potatoes will keep a reasonable time, and I submit it does not matter when they arrive. We may be inconvenienced by them not arriving at a given hour, but the article itself will not have depreciated. In the other case the article may be useless if it is late; that is my point. I would like to illustrate presently what I mean by that. We say the reason for making this request is this: the goods service is so very bad now and the risk is so great that the perishable articles cannot go by it. The other alternative that we have is the passenger service. We say the passenger service is so very expensive and the rates charged so outrageous —I might say one member of my Committee said I ought to add an adjective to it, but that is omitted—that the goods cannot possibly bear them. In some instances the rates charged are very considerably more than the grower receives for nine or twelve months' labour, use of land, capital outlay, and remuneration, and this federation feels that unless conditions of transit are changed, production and distribution must suffer incalculable harm. To illustrate that I have one or two cases here, and I have

purposely taken them from a district which Sir Walter Berry knows perfectly well, so that every statement I make can be checked by a member of the Committee, if what I say is doubted in any way. This is the case of some leeks loaded, I think, at Maidstone and consigned to Glasgow. They take nine days to get there—green vegetables. The cost to the merchant who sent them was £20. The result is he not only loses his £20, but is in debt to the extent of £2 3s. 6d. His claim is put in on the South Eastern Railway Company.

4745. *Sir Walter Berry*: Is this pre-war?—No, quite recently. The reply of Mr. Igglesdon of the South Eastern Railway Company, I think that is the name, says, "Regarding the account as above dated the 6th April I have made inquiries, and while regretting that the consignment was not delivered so early as you could have desired, I would take occasion to point out that no contract was entered into that the consignment should reach destination by any given time or date. It is usual for leeks loaded in February to arrive in good condition even with a transit as long as in the present instance, and I can only assume that the goods were in a wet state when despatched, which caused the heating and depreciation complained of. In all the circumstances I much regret being unable to see my way to accept responsibility." I certainly lived the early part of my life in the country, the latter part in London, and where I did live I was not accustomed to market gardening; Sir Walter Berry knows considerably more than I do about market gardening, but I have never seen either leeks or cabbages, or anything else, hanging on a clothes line to dry before they were put in the truck, and I have never known of any vegetables being dried when they are supposed to be sold green, and to suggest that nine days is a reasonable transit from Maidstone to Glasgow, and they did not guarantee to get it there within any given time, I think gives the trader a reasonable ground for complaining. It is possible, I quite admit, that if he took his claim to court he would get paid, but the reason my Federation suggests the time that these perishable goods should be delivered in, is to help the court, if they have to go to court, to find out what was the reasonable time. They would not have to consider the question themselves.

4746. *Chairman*: Is your proposal that we should recommend that a time should be fixed having regard to the distance and the circumstances which should be deemed reasonable for the delivery of goods?—Yes.

4747. That we should recommend so many days should be named?—Not days I hope.

4748. You would not hope to get from Maidstone to Glasgow under days?—I should hope to get them there in not less than 36 hours surely at the most.

4749. I know nothing about the running of goods services, but would not that involve an express train having to be run for your goods?—I do not know that it would unless the others are extremely slow.

4750. *Mr. Jepson*: Was this a truckload?—Yes.

4751. *Chairman*: Nine days seems to me an unreasonable time. If the law is such that you get a remedy already in the County Court there is no occasion for it to be altered?—Only this, if a County Court judge has to determine the time that is reasonable, we suggest that it would be of use if the time was fixed. In our suggestion we say this, that the times the trains should take should be agreed upon between the railway companies and the traders in perishable produce, or failing agreement by them, by the proposed new tribunal.

4752. There is a suggestion you have made and the last witness also made, that goods trains should be run to scheduled times agreed. That must depend very largely on whether or not there is sufficient goods traffic to justify the running of a train.—I do not assent quite to that.

4753. Do you ask that the railway company should be compelled to run a train whether they were given a fair load for it or not?—We are not asking for a goods service, we are asking for a service, and if in some places it did not warrant putting a goods train on, the whole quantity of traffic loading there, I do not think the traders would complain if they put it on the passenger train.

4754. *Mr. Jepson*: You do not suggest that goods trucks should be put on passenger trains, do you? It would not be allowed of course. The goods trucks are not constructed to run on passenger trains, you cannot apply the brakes. They are fitted with vacuum brakes and that sort of thing.—Do I understand you to say, Mr. Jepson, that no goods trucks are fitted?

4755. I do not say that, some goods trucks are specially fitted to run on passenger trains, but the majority of goods trucks are not, as you know.—I would like to answer the other question first.

4756. Very well.—Is it not an opportune moment to get the trucks so that they can be carried?

4757. *Chairman*: If you are suggesting a very large capital expenditure on the part of the railway companies, you have also to suggest a means of paying for it?—My point was this, that there must be of necessity, and I think it is generally agreed that there is a very large number of new trucks being made at the present time, and our suggestion is that those trucks should be made with the most up-to-date appliances attached to them to meet the requirements of this trade.

4758. If that involves an additional expense, are you prepared to pay additional rates to meet it?—We would rather pay a slightly increased rate, if you ask me the blunt question, above a certain class rate or a certain scale within a class if I may say so, if it was necessary to meet it, but we say that the rates are at the moment extremely high by reason of the high classification of many of our goods. That I understand is to be taken in hand later and we ask that we may be allowed to put our views forward at that particular time.

4759. *Mr. Jepson*: Do you often send leeks to Glasgow from Maidstone?—I am sure I do not know; it is not my own traffic.

4760. Is this an isolated case or typical of the service between Maidstone and Glasgow? You would not suggest that it was?—I do not know anything about that.

4761. Would you agree that Maidstone traffic has to come to Loudon and to be exchanged with one of the northern companies to get to Glasgow?—I presume it would.

4762. If it caught the night train to Glasgow it would arrive in the ordinary way sometime during the next day?—I presume it would.

4763. Is not that the inference to be drawn, as you do not know the particulars, that this particular truck must have broken down somewhere and had to be put off on to a siding to undergo slight repairs?—That is not the inference I draw, because I happen to have cases from Middlesex as well of the same nature, and they shared the same fate. I mentioned at the commencement, in regard to these cases, that if the Committee doubted any of the evidence it was within such a distance that Sir Walter Berry could test them.

4764. *Chairman*: Do you say that it is now much worse than it was before the war, or were there the same grievances before the war?—For what I term perishable traffic, it was gradually getting worse from the period when the railway companies ceased to compete with one another, but we had not anything nearly as bad as the service is to-day.

4765. Are these leeks sent at owner's risk?—They were not consigned at owner's risk. The alternative to sending them by such a service as that is this: I may say that the instance I give is typical of a very large percentage—it is impossible to say what the percentage is, but a very large percentage of this perishable traffic. The alternative is the passenger service, and I will show you how it operates, say, from approximately the same distance. I do

not know the village in which the grower of these particular cauliflowers lives in, but I will give you an actual case that took place. They were sold in Covent Garden on April 1st last, 100 nets of cauliflowers, they had come up from Kent and they were sold in Covent Garden at 4s. a net, that is, 2s. per dozen. The buyer of those cauliflowers was a merchant in Newcastle. He cannot send them by goods because it is too risky. The rate by goods, including carriage, company's risk, is approximately £2, I think £2 and some coppers with the latest addition.

4766. *Mr. Jepson*: A ton?—Yes, the weight of those 100 nets is a trifle, I have not the railway note with me, under three tons, but we can assume that it is three tons. If they had gone by goods train, and the goods service could have been relied on, they would have cost approximately £6 carriage. The rate by passenger train on those articles, which cost £20, is £18 18s. 7d. An ordinary 4-ton truck would be barely filled, and the cost of carrying that load from London to Newcastle is £18 18s. 7d. That worked out comes to this, when the charges to London were taken off, which would be about 1s. 1½d. or from 1s. 1½d. to 1s. 3d. a dozen, the carriage alone from London to Newcastle would be 1s. 10¾d. per dozen, the grower of those vegetables for his nine or 12 months' labour, use of land, and everything in connection with it, has 8d. or 9d. a dozen less than the carriage from London to Newcastle. I submit that no industry can carry on under such conditions. That is the only alternative we have at the moment to the service that we are asking for.

4767. *Mr. Davis*: They have carried on. You say you submit that no trade can carry on under those conditions, but they have carried on?—May I put this, that at the present moment or, say, during the war they have carried on, but ——

4768. With considerable extra profits?—I am speaking for the traders at the moment.

4769. I say with considerable extra profits than before the war?—I am sure I cannot answer for the body of the traders in that respect, I do not know their returns; I really do not know, I am only concerned with my own. That is not my own case, it was just a case handed to us one day quite casually.

4770. *Chairman*: I think we see your proposition. It is that a time limit should be fixed for the carriage of goods by merchandise train?—I have no wish whatever to limit the railway companies to carry these particular goods if it is more convenient for them to carry a small quantity by passenger train. If it suits to carry them by goods train I do not think our traders care one iota which they do so long as they are carried and get there reasonably early for the purpose for which they are intended.

4771. I want to get to your proposition. Here is a particular class of goods, and you say they need punctual delivery more than other goods in the same class?—Yes.

4772. Therefore, you ask for something better than the other people in the class get?—Yes.

4773. Are you prepared to pay extra for having special provision made for your benefit, putting you in a better position than other people whose goods are sent in the same class?—I am instructed to ask for them to be carried at the same rate.

4774. That does not seem reasonable. You may say that you are in too high a class, and ought to be put down, that will come into the second part of the Inquiry, but if you are to remain in that class and ask for a better service than other goods in that class, ought not you to pay more?—We do already.

4775. I do not follow you?—I think I am correct in saying probably 75 per cent., if not a higher percentage than that, of the potato traffic is carried at exceptional rates which are approximately—I do not say exactly—75 per cent. of the vegetable rates.

4776. Already you are given an advantage over other people in Class C?—I presume there are other things in Class C which have exceptional rates.

4777. Now you are asking that you should have something which the ordinary person in Class C does not get. Would not it be reasonable, if you get an additional advantage beyond what other people get, that should be considered in your rate?—If I was asked to make a choice between the two I would sooner pay a trifle more, what I term an insurance, than have the destruction and deterioration that is going on to-day. We never know whether we are going to get the goods.

4778. *Mr. Jepson*: Are not these cases you are bringing quite isolated cases?—No, that is my point. I would not have lent myself to the isolated cases.

4779. Do you suggest it is a regular practice for cauliflower growers in Kent to send their goods into Covent Garden, and for them to be paid in three-ton lots and sent down in three-ton lots to Newcastle-on-Tyne as a separate transaction?—No, the usual practice was to buy and send them by goods service.

4780. Straight from the growers in Kent, I should think?—Not necessarily.

4780A. Do you suggest there is a very large proportion of cauliflowers going to Covent Garden and dispatched 300 miles by passenger train?—Yes.

4781. Was there any reason why these were sent by passenger train, having regard to the date mentioned?—Because it is too risky to send them by goods.

4782. What was the date, April 1st?—Yes.

4783. Was that the Thursday before Good Friday? Was the man who bought anxious to get them into the market before Good Friday?—I should have to look at the date. I do not know it was. I never looked it up.

4784. According to my diary, April 1st was the Thursday before Good Friday, which may account for him particularly wanting to send by passenger train to get the sale before Good Friday?—I expected to be called last week, and I was getting breakfast in Covent Garden. There were some traders from the North whom I met casually, I had no idea they were there. We got into conversation and they said it was nearly a general thing there now that they hardly knew what it was at certain periods of the year to have an article in a fresh condition to sell. I said: "That is a serious condition to put the people in, it is not fair to them."

4785. I think you have chosen an unfortunate case to exemplify it, that is all?—All the circumstances with our particular goods are unfortunate. I have plenty of others.

4786. *Mr. Acworth*: You said that if it was necessary to get the extra speed you would be prepared to pay slightly more. If the railway companies come and show to us that it will cost them half as much again, would you still say you only ought to pay slightly more? I am not saying they would, but they might say as much as that?—I do not think they can because I think they have told this Committee that they cannot find out what the cost of the service is.

4787. You can find out the cost of any particular service if you set out to do it clearly?—I have not been here all the time the evidence was given, and I may not have grasped it.

4788. Let us suppose they could find it out and could satisfy the Committee that going on cost it would cost half as much again. Do you think it would be fair that the vegetable growers should pay that half as much again?—I do not think half as much again is a reasonable sum to suggest.

4789. Suppose that is what it cost, would it be a reasonable sum?—I want to be perfectly frank. I do not think it could be so because they have told us they cannot find out what the cost is.

4790. Suppose they could find out?

4791. *Chairman*: Put it in this way. Suppose they say the number of tons carried is so much and if we had to put on the trains that you ask it would cost so many pounds more than we are paying at present, if you divide that by the number of tons sent, irrespective of all other costs, there would be an increase of 50 per cent. in that amount. Then would you say you should pay the 50 per cent.?—No. I would suggest for the railway companies to say—in fact, they have said, I have heard them in this building say they could not possibly tell what the cost of a particular service was.

4792-3. *Chairman*: That may be true, but they may be able to demonstrate that it would cost so many shillings a ton without telling you the exact cost?—If you ask whether I think the railway companies would attempt to make out a case like that, I agree they would.

4794. Would you be prepared to pay the extra. You ask for a very big additional service of goods trains run to scheduled times to be agreed, or to be forced upon the railway companies; that means disorganising their other services to some extent. You are asking them to do a very big thing for the fruit and vegetable trade. They can calculate what quantity of tons they carry, they can make at any rate an estimate of the cost of running those additional trains; and if it comes to something substantial, are you prepared to pay it?—I could not agree that it would be a reasonable thing for a railway company to send a few trucks of fruit and vegetables on a particular train separate from other goods. I would like to debar them. I should not like to suggest they should not have the right to attach anything to the train.

4795. They are not going to get anything from the other people. The only people putting forward this claim are yourselves. If they said, this service will cost so many thousand pounds a year, you have so many thousand tons of vegetables, and you are the only people asking for it, and the only people who ask for something extra, would you concede that they were right?—At the moment vegetables are being sold in Covent Garden at 1d. a lb. How much could traffic of that description bear more than it is bearing, say, a bag containing 60 lbs. of vegetables?

4796. It may be, it is not an extraordinary thing, that there are some goods which will not bear the cost of transportation. They may have to be consumed in their own neighbourhoods. There are such goods?—Quite. I do suggest that our goods are such that the people must have them.

4797. People can grow vegetables in the North. It is not necessary to have Kentish cucumbers or cauliflowers in Newcastle. It is very nice and very good for the Newcastle people to get such an excellent article?—It is very strange, but both fruit and vegetables of that description work to the North. There is very little market gardening in the North and very little fruit growing. It is a strange thing, but that is the condition of things.

4798. I sympathise with your objection to goods taking nine days to get to Glasgow. There must have been some accident, I should think. It is not within our jurisdiction to deal with the questiou of railway management or delay, but we can deal with the question of rates. At present the suggestion you put before us is not that the rates should be altered, but that some additional service should be given in the form of this time table goods train?—I do not think that is quite what I said, if I may say so with respect.

4799. Please correct me.—We say this: As we see it, the railways are coming here and saying they cannot carry out their statutory duties at the charges that have been fixed for them. They ask that their charges shall be increased to meet the increased expenses. We do not object to that; that is not the point; but we say, and we suggest, it is within the power of the Committee to say, "We will recommend an increase, but it is conditional upon this service being granted." We submit that it is within the province of this Committee.

4800. I think we understand your point.

Sir Walter Berry: The point which I think you intended to make is this, that, having regard to the classification and the rates which you are charged, the carriage of these goods should convey with it the obligation to deliver them in a reasonable time?—That is so, and a time that shall be agreed upon. Reasonable—I have no legal knowledge, but I have heard that "reasonable" is an awful word.

4801. You suggest a reasonable time should be a time which could be agreed upon between business men representing railway companies and yourselves?—Yes. Now, with regard to maximum rates, if I may refer to our reply, we suggest that, whatever rates this Committee may make, they should come under revision within a limited period; we think the times are very abnormal now, everything is inflated, and we do not think that the rates which are necessary now, so as to meet the expenditure that the railway companies have been put to, might always be reasonable, and ought not to be fixed for an indefinite period.

4802. *Chairman*: Would it suit, if the new tribunal which has been so much talked of is set up, with power to reduce the rates as well as to sanction an increase in rates and with a right to the traders at any time to appeal to the tribunal to reduce the rates? Personally, I agree with you these are abnormal times, and we do not know whether the rates now fixed will be proper in three, five, or seven years' time. On the other hand, we do not know how long the abnormal time is going to last. Would it suit your case if the tribunal was there for the traders to apply to when they considered that the circumstances had so far changed, and that the time had come for a reduction in rates?—My Federation think that, whether the traders applied for that or not, in any case, just as it is now, the Minister of Transport should direct an inquiry if the circumstances appeared to warrant it, whether the traders complained or did not.

4803. With the tribunal there, there would be no difficulty in instituting an inquiry at comparatively short notice. Would that satisfy you, instead of trying to fix a time? I see you name five years. It might be in five years there had been some change, but obviously things had not settled down, and you might want to postpone it. It might be that things might settle down in three years and you might want to anticipate it?—Of course, I am acting under instructious, as one might say, and I do not know whether I should agree for the time to be altered in my evidence. As to whether five years is the correct period, or some longer or shorter time, I am not prepared to say, but we think that within a certain definite period these rates should come under review. In our replies we suggest a method of procedure as to how they should be dealt with. It may be, having regard to what has been said and the tentative arrangements made at this hearing, that those might perhaps have to be modified, but there is one point I would like to make with regard to that and that is this, that if the tribunal was the authority to fix or alter rates upward, it should be the authority to alter them downward. I heard Sir Alexander Butterworth in this chair suggesting that the railway companies should have the right to reduce the rates, in fact I think he said all of them, if they thought fit. Reducing rates is a very taking proposition to a trader. I am ready to admit that, but if Sir Alexander wants to reduce the rate from Hull to Newcastle I want to be in the position to say, "You can reduce the rate from Hull to Newcastle, but you must reduce them all the way in between, to all the stations in between." I do not want him to be in the position to reduce one set of rates and not the other for the same article.

4804. You think there should not be a reduction made without it being brought before the Committee to sanction?—That is so. With regard to the new tribunal, our suggestion very largely follows, I think, what has been arrived at here up to now, with the exception I have proposed that five gentlemen should compose it. We representing the Federation do feel if the inexpensive tribunal that has been suggested, and which we suggest also was going to result in the finish, and the same counsel was going to be brought to that tribunal to plead the case of either one side or the other, that then the whole suggestion of that tribunal is surely a farce. We suggest to the Committee that that tribunal should be limited. I am sorry to say perhaps that it may touch the interests of some present, I do not know that it matters much.

4805. It does not matter a bit?—We suggest that no one in a higher status in the law than a solicitor should be allowed to appear at that tribunal, or otherwise the whole idea of inexpensiveness goes by the board surely.

4806. Do you think if there was a class of solicitor advocate who had made a great reputation in the course of two or three years they would not also want a good fee?—I do not know. I think they are very human.

4807. *Mr. Acworth*: Take another thing, do you think the solicitor that you ordinarily go to if you want to draw an agreement, or anything of that kind, is an authority on railway rates?—I do not care to express an opinion upon that.

4808. You know the solicitors to the railway companies are?—I agree.

4809. Do not you think he would have a bad chance?—It is possible.

Sir John Simon: You had better exclude solicitors.

4810. *Mr. Davis*: I understand you are a wholehogger for a new tribunal that shall be get-at-able and at which it will be easy to arrange matters without so much expense and so much delay. Is that your point?—Quite, but I must confess that I do not see where the inexpensiveness is coming in if the gentlemen who generally appear, say for one side or the other, in the Railway and Canal Commission Court are going to be allowed to go there too. I think there are too many of the honest pennies about Sir John mentioned the other day.

4811. I think you said you did not want a lawyer there at all?—Sir John said I had better suggest that, and I think I will accept his suggestion.

4812. *Chairman*: Is it really in the traders' interests to get on the side of the railway companies a man sent down who knows his case from A to Z, a rates clerk or somebody who has been in that branch of the business 20 years? You will be up against him; he not only knows the law so far as there is any need to know it, but has all the facts at his fingers' ends, and if you make a suggestion he will be ready with a counter-instance and be able to produce documents to show he is right, and so on. Would not the trader be at a great disadvantage if you had to send somebody from your office? I daresay you could take care of yourself, but think of your neighbour who has not a ready tongue or is adaptable; he has either to go or send somebody from his office to whom all these things are new. Would they have a chance against the railway man?—I think if there is a fair element of, what shall I say, people interested in trade in the Court, they will see the common-sense view of things.

4813. Where the expert has the chance is, he has so many instances he might give; he is able to say that would create such and such a difficulty which has arisen in his experience before. It would give him a very big advantage at the start?—It is possible. I would not like to discount the ability of anyone representing the railway companies. My difficulty is that I have never been able yet to impress the members of my trade sufficiently of that matter myself. If they would only recognise superior ability in this matter they would perhaps be able to look after themselves a little better.

4814. *Mr. Davis*: You might put it in another way. You have what is proposed, a new tribunal set up with a Chairman who knows the law very well indeed. You have sitting on either side two business men, and then it is suggested there should be a panel of 12 or 14 gentlemen who would be commercial men, and then a case coming up from your members or somebody else, and from this panel the Chairman would select two from either side, who would be experts, to put the two positions, the "for" and the negative, as it were. Would you agree with a thing like that?—Something of that nature. I would like to read out what my Committee had in mind. It was this: "The Federation adheres to its recommendations made in its reply to question 1 (*b*) of the Ministry of Transport's letter, except that the new tribunal should have in addition to what may be termed the permanent Court." Let me say at this juncture I do not personally quarrel with the Railway and Canal Commission as a Court. I think you must continue that to deal with the larger questions and as a final Court of Appeal. I do not think that either one party or the other ought to go beyond it, but we suggest lower Courts, and let the lower Courts be modelled after the Railway and Canal Commission Court, permanent with three members, and then add one member representing the fruit trade, whatever it might be that was affected, and in our case we should suggest that the Ministry of Food or the Board of Agriculture, if it was food stuffs, should have the right of nominating another member.

4815. Did you hear Sir John Simon's statement yesterday that whatever happened counsel would be there. It was suggested you could not do without counsel. I understood your view was that you can do without counsel and a variety of counsel?—I do think so.

4816. If not, what was the suggestion worth?—I do think there are some cases of lesser importance to others that could be dealt with by such a Committee May I read what we said in our reply to the Ministry of Transport. "The Railway and Canal Commission Court should be retained as a final Court in all railway matters, but a first Court or Courts of Reference should be formed consisting of two Commissioners (one representing railways and one representing producers and traders, to be nominated by the Board of Trade) and a legal referee." That was our first idea, but I think, in fact I have promised, to say that we would fall in with the general view that there might be two other persons added to that body. It seems a reasonable thing. As I said when I commenced speaking on this matter, I cannot see what is to be gained by setting up another Court, if there is the same expense to be attached to it, and there would be if counsel was to be allowed to attend. It is not for matters of that description that I think that Court ought to be set up.

4817. *Mr. Jepson*: Your view, as you put it in (*b*), is that the Railway and Canal Commission is to be a final Court in all railway matters. That rather suggests that you may have to go before the two tribunals which probably doubles the expense?—I can imagine matters coming up that probably might be of such importance that neither one side nor the other would care to accept as final, I mean from the lower, but I think that the Railway and Canal Commission should be the final court, that there should be no appeal beyond that even on questions of law.

4818. *Mr. Davis*: Assuming that a point was *ultra vires* the reference to a Committee, you would agree that that must go to a bigger authority?—Yes, that is so.

4819. Take questions that come within the scope of the Committee that do not cut across an Act of Parliament, or some clause in an Act of Parliament, then you contend I presume the Committee, whatever is set up, should have the final power to deal with it?—Yes, matters of fact, shall I say, and small matters. One might suggest this, I do not know how far it will go, I am not learned in the law, that it might be for the permanent court itself, that is

the Legal Referee and the two interested, the trading and railway interests, might say, this is something upon which, if they apply for appeal to the Railway and Canal Commission, it must be for them to decide as to whether they should be allowed to or not.

4820. That is not my point. If there is any doubt about it the Chairman would say, "This is a matter which must go before the higher tribunal." Assuming that the Chairmau and the Committee agreed with him that it was not, that it was provided for by the Reference, then you would advocate that that matter should be settled and not be re-opened?—Quite.

4821. *Mr. Jepson*: By the lower tribunal?—Yes.

4822. You have had some experience before the Railway and Canal Commission Court, or your Federation, not very long ago?—I do not know that our Federation have. I have personally in conjunction with certain other traders.

4823. I have in my mind rather a big case, a question as to how many free days should be allowed potato dealers at King's Cross before demurrage was incurred. I think the Federation claimed 4, and the Great Northern 2. That was fought out before the Railway and Canal Commission. Would you suggest a case like that should come before the lower tribunal and on appeal to go to the higher tribuual, or would you consent to the lower tribunal deciding a case like that, or would you wish to pass over the lower tribunal and go to the higher tribunal at once?—You are asking me personally. I do not know that I am entitled to answer it for anybody else.

4824. I am asking you personally. You are a member of that Federation?—I am not answering that question on behalf of the body of traders who were interested in the case, or the Federation, which are two distinct bodies. I am only giving my persoual reply.

4825. *Chairman*: Give your personal view?—I say at once that I have no quarrel with the Railway and Canal Commission. The traders in that case were very harshly dealt with, but at the same time I am ready to say aud admit frankly we think we got a patient and proper hearing; one party or the other had to lose, and we lost and we must take it, that is all. We must accept it.

4826. Mr. Jepsou's question was, suppose this tribunal was set up? Would you ask that such a case should go to the new tribunal either with or without a right of appeal, and you to say which it should be, or would you rather it went to the Railway and Canal Commission? I, personally—I say it for myself, it is probable I may be differing from the large mass of traders—would prefer to have gone to the Railway and Canal Commission. I want it distinctly understood that is personal, I am not speaking for one body of traders or another in that respect. Their views might be quite different from mine.

4827. *Mr. Acworth*: On a question of law wheu you get to the Railway Commission you think the decision of oue lawyer better. That is what it is. The judge on the question of law ought to be final?—I do in these cases, because I think there are sufficient gentlemen to draw from; if there is not one, there is the other.

4828. I am talking of the Railway Commission. He is a judge. You think if the judge says the law is so-and-so that ought to be final?—Quite.

4829. You know if a Judge in the King's Bench or Chancery Division says the law is so-aud-so, you can appeal from it?—Yes.

4830. You will agree that these cases are important both in the amouut of money involved and the number of people affected, and they are complicated?—Yes.

4831. Why do you say that there should be no appeal from the oue Judge on a big complicated important case when anybody can appeal from a Court of King's Bench if there is 10s. involved?—I think when it has gone to the final Court of Appeal you have only got certain gentlemen's opinions.

4832. That is true, but you have more thau one?—You have only got their opinion.

4833. Assume Parliament is right in allowing appeals in ordinary cases from a single Judge, why do you want to make a distinction here?—I think there should be a finality to it. If one condemns the reasonableness of going to the House of Lords I do not see why they should go on for ever.

4834. *Mr. Martin*: This is an Advisory Committee. It is suggested that the traders and the railway companies might go before that tribunal, and might, on the one hand, ask for a rate to be increased, or on the other hand for a rate to be reduced. Under the Act if 1894 if a railway company wauts to increase a rate they have to go before the Railway Commissioners and to justify the increasc. If the tribunal is set up the railway companies yesterday rather replied that that would mean the 1894 Act would go. Which would you rather have, the 1894 Act with its safeguards to traders under the present system, or would you rather go to the tribunal and trust to them?—It is an extremely difficult questiou. I am not quite sure of my ground with regard to the new tribunal. I am well aware what is lying behind the question. If it was going to be a permanent matter I always like to remind you that we have suggested a revision of rates within a limited period. Perhaps for that limited period I would be content. Assuming that the tribunal was one that the public had confidence in, I would be content for that limited period to place ourselves in the hands of that tribunal. If you ask me whether I would prefer that to continue indefinitely I would not like to commit the Federation or myself to that view, because it is common knowledge to all traders the abuse that was made of the power that was given to the railway companies in 1891 and 1892. The so-called panic legislation was necessary to protect them.

4835. *Chairman*: Nobody has put forward a suggestion that railway companies should have unlimited power to increase their rates. Every suggestion that has been made is that they should only increase them subject to the aproval of the new tribunal. Do you object to that?—I do not object to it for the limited period.

4836. After the limited period is over can you point out what is the difference between the position as it is at present and the position as it would then be? At present they have to go to the Railway Commisioners. The proposal is that in future, both during the limited period and thereafter, they should have to go to the new tribuual. Except the differeuce of the hearing what difference, does it occur to you, there is of importance in the matter?—Of course, an Act similar to the 1894 Act, from what little I know of it, appears to be this, that the 1894 Act would give the trader addition security.

4837. What additional security do you imagine he would get?—It would always be that the tribunal itself could not go beyond the powers that the Act gave them.

4838. No, that is uot the 1894 Act, that is the 1891 Act. The 1894 Act is that they may not go up even to their maximum without the sanction of the Railway Commissioners. I want to know if you have in mind any distinction between that and the present proposal. I do not say there is none, but I woudered whether you had it in your mind. There is a general impression it gives a remarkable safeguard which the other would omit. I will point out what I think is the only difference. I may be wrong, perhaps somebody else will suggest another. Under the 1894 Act the words are that the railway company have to give evidence justifying the increase in the rate. Under the new proposal it is that all that would be incumbent on the railway company would be to show that the new rate was reasonable. Do you think there is a substantial difference between those two?—Yes, I should, because in the one case they have to justify their whole rate, and in the other they would only have to justify the increase.

4839. Which do you think will be the easiest for them to do?—I should think the increase probably.

4840. You think it will be the easiest?—I thiuk perhaps it would.

4841. That is the 1894 Act. I do not think there is much difference. The difference has arisen mainly from interpretations put on the Act, and not on the words of the Act.

Mr. Martin: It would depend on what provisions were laid down with regard to the tribunal.

Chairman: It would very much.

4842. *Mr. Martin*: If the trader is not safeguarded under the tribunal as strongly as he is under the 1894 Act, then I presume you would rather have the 1894 Act?—As a trader it makes one consider whether they ought to suggest any protection being given away. It is a very difficult question to answer. One should hesitate to recommend any protection that the trader has at present being taken away from him. I am sure he knows that.

Chairman: Mr. Thomas, I think this is a question which has not been completely considered on the traders' side. Possibly I have indicated my view too much already, but I think it would be convenient if you consulted your clients to find out whether they have got a definite opinion about the repeal of the 1894 Act.

Sir John Simon: Section 1?

Chairman: Yes. The question of repeal is a mere nothing, but whether what is substituted for it should be in the same words, or whether there is any objection to the proposal the railway companies have made, that that which is substituted for it should be, the railway companies shall make no increase in their rates without first obtaining the approval of the new tribunal, that is a fair statement of it, and in so doing shall have an onus upon them of proving that the proposed new rate is reasonable in all the circumstances.

Sir John Simon: I do not want there to be any misunderstanding. You stated two things. As regards the second of them, I think it is quits as we understand it. I do not think we are quite perhaps in agreement about the first thing.

Chairman: I am aware that Sir Alexander Butterworth was not.

Sir John Simon: I think you must take that as being the railway view. Our suggestion for the consideration of the Committee is that inasmuch as the new rates which this Committee is going to fix will necessarily be fixed, no doubt with the greatest skill, still will be fixed without the certainty that they will turn out to be right, the railway companies ought to be entitled to announce off fair notice that they will propose to put in force a higher rate. Our proposal is, although that would be open to challenge by a trader or body of traders, if it is challenged it must come before a tribunal, and it will be for the railway company to satisfy the tribunal that they are right. There would not be the necessity of a visit to this tribunal, and a multiplication of proceedings, it seems to us, if the notice was a notice which was challenged by nobody, because we anticipate that with the best will and the best skill in the world there will inevitably be some cases in which it will be found, and traders will agree, that rate has not been fixed at the right figure. I cannot see why in a case like that there should have to be an occupation of time by the tribunal. That is not the particular point Mr. Major is making.

Chairman: I think not.

Sir John Simon: As regards Mr. Major's point, I agree, and I have rather understood that a considerable body of trading opinion took the same view. We think that ourselves it is an unduly technical test to apply to say that a railway company can only justify its proposed new charges by showing that the increase, that is to say, the difference between the old rate and the new rate, is justified by new circumstances which have arisen since the old rate was fixed.

Chairman: That is the interpretation that has been put on the Act.

Sir John Simon: Yes. I concede to Mr. Major at once it is undoubtedly a topic which not only gives difficulty to railway companies, but consumes a great deal of time. I entirely agree with him that the example *par excellence* in the Railway Commissioners' Court has often extended a considerable time. The reason is, as you know, because the railway company can only deal with it by the most elaborate set of tables covering hundreds of pages of print, in which they compare most elaborately the cost they were put to when the rate was first charged with the cost they are put to now, and not only that they have to show that the increased cost is actually due to the traffic in question, which is a fearful business, and everybody agrees that it is. Our suggestion is this, and I think many traders agree with this: If the increase of the rate is challenged by the trader, the trader, of course, is entitled to say, I must have a judgment by an impartial tribunal as to whether the proposed charge is right or wroug. That is perfectly right, and nobody would seek to resist that. It is perfectly right to say, if the trader challenges it, that it must be for the railway company to justify; it is not for the trader to prove he should be charged the old rate, but for the railway company to show that the new rate is a fair rate. What we think the railway company ought to be asked to do, iu common fairness, is to satisfy the tribunal that the charge they now propose, which will be the higher charge, is in itself, in the circumstances, a reasonable charge.

Chairman: I am much obliged to you, Sir John. I remember you have said that before, aud I will bear it in mind. I thiuk that the question is of so much importance Mr. Thomas should put it to his clients.

Mr. F. G. Thomas: I think I can say this much at once. As regards the question of the 1894 Act, we take the view that in making it obligatory on the railway company to come to the tribuual to justify an increased rate we are maintaining substantially the protectiou which we got under the Act of 1894.

Mr. Jepson: If challenged.

Mr. F. G. Thomas: Yes. To that extent I think we are at one.

Sir John Simon: Yes.

Mr. F. G. Thomas: I do not feel sure we are so much at one when we come to the considerations which would determine the consideration of the tribunal. It is quite true that the question before the tribunal will be, Is this new rate which is proposed a reasonable one? That I agree, aud I agree further that the procedure before the Railway Commissioners, where you are simply dealing with the actual increase, and the railway company has the onus upon it of showing that that particular increase is to be attributed to that particular class of traffic, is a very difficult onus to discharge, and takes a long time, and probably the justice of the case could be dealt with in a different way. But I think we must assume that as the rate which is being varied is a rate which will have been fixed by the tribunal originally, or is a rate which the railway companies have themselves conceded in order to avoid difficulty, that rate at the time it was granted was a reasonable rate. The railway companies will be proposing a new rate and a higher rate, and I think it is for the tribunal, and it will be for the railway companies to show that there has been a change of circumstances between the time when the original rate was imposed or granted and the position as it is when they are proposing to make the change. In that sense I think the onus will be on the railway companies to show that; in order to show their new rate is reasonable they will have to show that the circumstances which made the origiual rate reasonable have altered.

Chairman: This comes to the crux of the case. Are you saying that they must show some change in circumstances, or are you still contending, as it has been under the Act of 1894, that they may show a particular change in circumstances which has led to an increase in cost to them.

Mr. F. G. Thomas: No, I do not put it so narrowly as that. I think that the question of cost, and especially the question of cost to be attributed to that particular class of traffic, is too narrow. I think it is a question of the circumstances of the industry, the presence or absence of competition.

Chairman: I am obliged to you; that is just what I wanted to know, if you would be content with them showing any change in circumstances. For example, they gave an exceptionally favourable rate to foster an industry and now it is flourishing, or they gave an exceptionally favourable rate on the anticipation that large quantities of goods would be sent at that rate, and it has turned out a mistake. In anything of that sort, if they may take all the circumstances into account and show that there have been changes in circumstances and put it to the Court, having regard to those changes, is it reasonable that the new rate should be substituted for the old, I do not think there is much difference between you and Sir John Simon.

Mr. F. G. Thomas: I do not think there is ,but I want to have it clear; in our view it must be an assumption on the part of the Commission, not only that the rates they imposed were reasonable rates. which must be conceded, but where the railway company granted a lower rate at a particular time, having regard to all the circumstances as they existed at that time, it must be assumed that that rate, in those circumstances, was a reasonable rate.

Sir John Simon: Would my friend make himself clear about that? That seems to be the only point upon which we really differ. I think the railway companies will uphold me in saying this, I understand you to say that the tribunal which decides the question must consider all the circumstances of the case, and amongst them the question of competition and whether the industry is an infant or a flourishing industry, and a large number of practical questions of that sort. What I want to be thoroughly clear about is this. On behalf of the railway companies, I could not assent to the view that the tribunal which is to deal with this thing in a business-like, practical spirit—no lawyers' nonsense—the claim that a lawyer is to be heard is because he can state a thing clearly, it is not that he is cleverer than anybody else, I do not say that other people cannot do it, but the essential point is that I should not consent, and it would not be our advice to the Committee to have it laid down that it must be a presumption from which you start which cannot be challenged, that the thing which was laid down by this Committee was a reasonable rate at the time. I am willing to accept it that someone must show why it was not. We shall begin with the assumption it is right, but with great respect to this Committee, I am not prepared in advance to say that whatever this Committee lays down to be right shall, as a matter of law, be regarded as a reasonable rate at the time they lay it down. I cannot say it was, because I may be able afterwards to say that this was a case where we were all misled.

Chairman: Or where there were particular circumstances existing which were not brought to the knowledge of the tribunal.

Sir John Simon: I will accept with pleasure and I ought to accept this, that as it was laid down by the Committee, or granted by the railway company, it will not be altered unless the railway company show some good reason. I must not be barred out from showing that the reasons existing at the time the rate was fixed, although they were not permanent and perhaps were not realised——

Mr. Davis: That means you would not submit to the will of a new tribunal set up without you had power to re-open it.

Sir John Simon: Yes, I think that is one of the reasons which goes to support the view that the tribunal, whatever it is, which will have to consider disputed cases and changing the rates, should be as far as may be a tribunal like this one. I should not be afraid of that, but I shall not be there whoever it is; the Rates Clerk would not be afraid of saying to the Chairman, if it were Mr. Gore Browne, in the matter, "We submit when you fixed this rate in 1920 you had not given sufficient weight to these circumstances which existed, but which perhaps were not sufficiently realised at the time." I think that is a businesslike thing to say, and I should have thought the business committee would be willing to consider it.

Mr. Davis: It would be an additional authority still.

Mr. Martin: I raised this question with the witness in order to try and bring this out, because I felt that there was some difference between the railway companies and the traders. We are very anxious to get the traders to consider carefully what they are definitely asking for so that we know exactly what they want.

Sir John Simon: If the Committee does not think I am wasting time I should like to state it, I can state in three sentences what it is which we suggest, and we should like to know which of these things it is to which the traders object. We suggest, first of all, that if a railway company desires to increase the rates as fixed and objection is taken, the railway company must justify their proposal, and it is for the railway company to do so. We suggest, secondly, that the railway company should be required to show that their new rate as a whole was reasonable, but should not be limited to the very technical inquiry as to whether the increase is justified by new circumstances. We suggest, thirdly, that while, of course, the tribunal will begin with the assumption that the old rate was a reasonable rate, it should be open for the railway company to show, if they can, that as a matter of fact the charge ought to have been a higher charge than the charge that was fixed.

Chairman: You cannot put it clearer.

Mr. Acworth: As I understand you agree it must be presumed. I did not understand Mr. Thomas to say that it must be conclusive and presumed that the old rate was reasonable.

Sir John Simon: Then we are entirely at one. I do not ask for anything more.

Mr. Jepson: I think we may assume, as you put it just now, as we are starting on a new basis, or probably shall be starting on a new basis, which has been fixed, that if you regard it as reasonable in the first instance there will be more anomalies to redress up and down than there were when the 1892 rates were fixed as a maximum. Therefore it seems to me you do not want to be limited, I mean the railway companies, to a change of circumstances, do they?

Sir John Simon: No, that is what I mean.

Mr. Jepson: It comes in whether the rate is reasonable, having regard to other rates.

Sir John Simon: I think that is a just observation. Under the system which has existed for the last 20 years, there was this strong practical ground for holding that the rate now being charged was reasonable at the time it was charged. It was really a result of years of experience. The rates we are now dealing with, although no doubt they will be arrived at with the greatest care and fairness, will be really a new start, cutting new ground. Therefore I do not think it will be a particularly businesslike view to say that they must be treated like the laws of the Medes and Persians, and you must prove that something new has happened since.

Chairman: There will be such a mass of rates that lots of things will have been done in a grouping way without having considered the particular rate in question. The tribunal cannot consider each rate separately.

Sir John Simon: May I point out to the traders that I do not think there is a real difference between us? What I am claiming for the railway companies, on the one hand, is equally to be conceded, and no doubt will be claimed by the traders on the other, that is to say, if a trader comes hereafter in 1925 and puts his finger on a rate which this Committee has fixed, and says, "I want that rate to be brought down," I conceive that the railway company ought not to be able to say, "You, my friend, will have to prove some new circumstances since 1920 or else you cannot get it down." On the contrary, I think he ought to be entitled to say that rate was fixed too high in 1920. It seems to me only fair.

Chairman: Mr. Thomas, will you think over that? I think it better not to press you to give an answer on the spur of the moment.

Mr. F. G. Thomas: I would like to have an opportunity of consulting the representative of the Chambers on the point. I do not think there is a very wide gulf between us. I concede at once that all the circumstances ought to be before the tribunal. From the traders' point of view I do not want to limit the discretion of the tribunal, but what I feel is this, when an increase of rate is asked for there must be some ground upon which that increase is to be based, and the existing rate is one of the factors in the case.

Chairman: Yes.

Mr. F. G. Thomas: And a very important factor.

Sir John Simon: I accept all that.

Mr. F. G. Thomas: Although I concede that the circumstances should cover the whole range, I still feel it is necessary for the railway companies, in order to succeed, or for the trader to succeed, in the application for a lower rate, to convince the tribunal that the circumstances as they exist when the railway company applies for an increase, or a trader applies for a reduction, are different from the circumstances when the rate was fixed.

Mr. Acworth: No, that is a mistake, is it not?

Chairman: I think it is.

Mr. F. G. Thomas: If some material factor which ought to have been before the tribunal, or ought to have been brought to the knowledge of the railway company, had not been brought, I do not want any technical point about reasonableness of the rate, because obviously the whole matter is at large, and it is for the tribunal to deal with it as it thinks fit.

Sir John Simon: I do not want to delay you. The issue is plain, I hope. I do not think there is any question. Do get your clients to consider this case, and no doubt Mr. Major will consider it. Suppose with the best will in the world this Committee fixed a rate for potatoes, which is found in the course of twelve months to be a rate higher than potatoes can bear, is it really the case that all the people who are interested in sending potatoes by train are to be unable to get that rate down unless they can prove either that it was the right rate for potatoes in 1920, or that it was the wrong rate in 1921? I cannot believe that any business man proposes such a thing.

4843. *The Witness*: May I ask one question upon that? Is the onus of proof of a reduction to be on the trader or the railway company?

Chairman: The onus of proof in asking for a reduction will be on the trader. The onus of proof in asking for an increase will be on the railway company.

Sir John Simon: I think so.

Mr. Abady: Upon this matter, sir, you have only addressed yourself to Mr. Thomas, but I have no doubt you desire to have the views of those representing the coal traffic.

Chairman: Certainly.

Mr. Abady: Might I ask this, in order to get the thing clear? Is this suggestion from the railway side, that the thing to be decided is no longer the increase, but instead it is the whole rate?

Chairman: If you will read what Sir John Simon said just now, I think you will not have any doubt what it is that the railway companies suggest.

Mr. Abady: I was comparing it with the memorandum the railway companies put in.

Chairman: I will take what he said just now if you will consider that when it is in print. You will have plenty of time to think it over by to-morrow morning. Let us hear what is your view. I think that will be the best plan.

Mr. Acworth: I want to ask you another question. You spoke of the necessity of notice. Assuming a notice given by publication and no trader objecting, and the tribunal, being concerned with the fact that you have given this notice, says nothing; do you agree that that is tacit approval?

Sir John Simon: I think so. I would not wish to bar a trader, however, from his right, after the notice has expired, of coming and asking for the thing to be considered. He may be a new trader.

Mr. Acworth: You are not seeing my point.

Sir John Simon: I beg your pardon.

Mr. Acworth: What I understood you to say was you did not think you ought to be bound to get the approval of the tribunal in all cases.

Sir John Simon: We thought not. We thought that proper publication would be sufficient.

Mr. Acworth: What I put, as a matter of fact, is if the form of the thing is that a notice should be given to the tribunal and any trader is competent to send notice to the tribunal of objection, and then, no objection being taken, possibly by the tribunal itself asking for further information, we will say, *ipso facto*, the rate comes into force—is not that the tacit approval of the tribunal?

Sir John Simon: Yes, I think that is so.

Mr. Acworth: You do not need more than that?

Sir John Simon: No.

Mr. Acworth: You rather pressed the point.

Sir John Simon: Yes, I think your answer is perfect so far as I can see. I feel sure that everybody will believe that the railway company is not desirous of encouraging litigation on any subject.

Mr. Acworth: It is common ground that there must be notice, and it is common ground if a trader objects somebody has to decide?

Sir John Simon: Yes.

Mr. Acworth: The only question is whether you need affirmatively go to the tribunal and say: Please sanction this, or whether it may be left in the form. Here is what we propose to do, and if you do not object we will sanction it. It is really a question of machinery.

Chairman: There is one other point with regard to that which you must consider at some time, and that is as to whether or not the rate comes into force automatically?

Sir John Simon: Yes, there is that point. Dealing with what was brought up by Mr. Acworth at the moment, my own view on that is that although there are special cases in which a tribunal might on the application of the trader grant a suspension or adjournment, it is to everybody's interest that the rate should come into force promptly. It will encourage prompt decisions of the tribunal, and it will encourage prompt decisions by the trader, and it will prevent the very serious state of things which arises when things roll up for a long time and there are disputes about interest and so on.

Mr. F. G. Thomas: On that we are at issue.

Chairman: You ask that it should not come into operation until approved if objected to?

Mr. F. G. Thomas: Yes.

4844. *Witness*: There is one point I should like the Committee to consider with regard to these rates and that is this. If the onus of proof of the unreasonableness of a rate, and particularly a new one, is to be placed upon the trader, with no data to go upon, the railway company having all the information, I do not imagine how he can do it.

4845. *Chairman*: It will not be a new one. It will be an increased rate. In a sense an increased rate is a new one. The railway company will have increased the rate. The original rate is fixed by the Act of Parliament. If it is to be changed upwards the burden is on the railway company, if it is to be changed downwards the burden is on the trader?—That would be the new suggestion?

4846. Yes.—Well, I would ask, on behalf of the traders that I represent anyway, that the Committee recommend that the onus of proof in both cases should be put on the railway company.

4847. Do you mean that if a rate has been fixed on the advice of the Committee or by Parliament at 20s. that any trader in the Kingdom may come forward and say that ought to be 15s., give no evidence, and put on the railway company the burden of proving it was a reasonable rate, and that that course might be repeated with regard to every rate in the Kingdom?—Well, I do think that there must be in

the new rates, if there is going to be a levelling either up or down, something that somebody will need to challenge.

4848. To challenge because he considers them unfair?—Yes.

4849. Why should not he give his evidence and show why he considers them unfair?—He should give his evidence as to why he considers them unfair, but I do not see what data he will get.

4850. If he has no data for considering them unfair I do not think it is right that he should take any steps. If he has data he ought to bring them before the Court. He might come and say, "My rate used to be so much. I dragged along a precarious existence while it was at that figure. It has been put up so much, and now I am driven into the Bankrupcy Court, and so are all my neighbours." If he comes forward with that sort of evidence, the railway company will have to meet it?—I am glad to hear it.

4851. *Mr. Davis*: Supposing I had a house and you wanted it and you said, let us put up this house to arbitration, whether it belongs to you or to me, would you agree to that?—I do not quite see the point.

4852. *Sir John Simon*: I want to offer Mr. Major not an argument, but this consolation. Mr. Major will realise that what would be involved in this proposal is in itself a new concession to the trader. I think it is quite a fair concession. At the present moment, the trader has no right whatever to call upon the railway company to reduce the charge that it is making. We suggest that the traders, if they have got the material, can get that done by order of the tribunal. That is out point?—We will leave that. I would like to think about it. There are two or three matters I want to bring out with regard to the function of the tribunal, if it is going to be an inexpensive one, which is what we all desire. My Federation would suggest that one of its functions should be No. 1, which is reserved to the Railway and Canal Commission on page 33 of the 7th day of the hearing—"To require the railway companies to afford facilities and functions in connection with the receiving, forwarding and delivery traffic on or from the railway and on and from sidings"—and also No. 2 and No. 7. My Federation would submit all those three matters are proper subjects to be dealt with by the lower tribunal. I have in mind a case that happened within about a month where the railway company refused to accept an agricultural seed merchant's seeds because he asked them to count the packages. If he has got to go to the Railway and Canal Commission to enforce his right in that respect because he requests them to count or check the packages, I think it is putting a burden on him that he should not have put on him. He wants something a little cheaper that the Railway and Canal Commission to go to about that. Then, with regard to the arbitrator mentioned in No. 7, the Railway Commission are to act as arbitrators in any case which may be referred to it by the Board of Trade or the Minister of Transport. The traders would suggest in many cases that the lower court would be the proper body to make the reference to in the case of arbitration where the traders were concerned, and particularly small ones. Further, I would like to say, on the point with regard to conciliation which has been suggested by some traders, that in addition to the Court, Conciliation Boards should be set up, my Federation would endorse that proposal.

4853. *Mr. Davis*: Conciliation Boards in addition to the new tribunal?—Well, the tribunal, I take it, would be the court.

4854. Local committees?—Yes, something similar to that. I do not want to waste the Committee's time with going over that again. Now we come to the question of rates and charges which are mentioned in 2, 3, and 5 of the replies. Our reply is this: A single scale of rates should be fixed for all railway companies in Great Britain, based on a mileage principle with the provision for an assumed larger mileage in cases of special necessity, as at present provided in the Rates and Charges Order Confirmation Act, 1891-1892, provided always that where more than one railway company serves any particular town or place the shortest route should be taken as the mileage for all. As to No. 3, we agree to the cumulative, and as to No. 5 we apply the cumulative principle to the short-distance traffic too. I think that traders are in agreement with the whole distance being reckoned as one mileage, no matter how many railway companies' lines it may pass over. The next point of interest is the question of lots *versus* loads. My Federation say, with regard to the loads question, that they view with very grave concern the attempt to substitute loads for lots. It would work very hard on some people in their consignments. It has been pointed out in evidence, and I do not wish to repeat it, that where a quantity wanted to be consigned was greater than a truckload they will be penalised with a smaller quantity. It frequently happens if you tender a five-ton load, you may get a three-ton wagon, or if you tender ten tons you may get a seven-ton or six-ton wagon, and you do not get the whole consignment taken at the one rate. I ask that the lots system should be continued. With regard to station and terminal charges, we ask that such services—I am speaking for our trade alone—as the trader can perform himself he should not he charged for. We suggest all these should be specially shown in all the rate books separately from the conveyance rate, and should be charged only when rendered to traders. The railway company should be obliged by statute to perform all station and service terminals, also collection and delivery of lots less than two tons per consignment, except where the trader has given notice that he does not require the service or services performed.

4855. *Sir Walter Berry*: Do you ask for that in the country station as well as the town? You do not do that?—Well, I would press that, but if they do not perform the services I suggest that they should pay or they should allow the difference in rate. At the moment they do not do it—I am speaking generally. In other words, the grower in the country pays for a service which he never gets.

4856. *Mr. Jepson*: Why do you limit this suggested obligation on the railway companies of collection and delivery to lots less than two tons per consignment?—Because I think the others are lots which it is perhaps unfair to put upon the railway companies.

4857. You think for the larger lots the traders would prefer not to cart them?—I think perhaps the companies would prefer that the traders would cart them.

4858. I should have thought it would be the other way about?—We do not find it so.

4859. *Sir Walter Berry*: Do not you mean with smaller quantities going at much higher rates they should be C and D?—I do not quarrel with the C and D rates so long as the trader, if he wishes to cart them himself, is allowed a proper sum for cartage, or any other service which he might perform.

4860. *Mr. Jepson*: Do you think it is more expensive to cart small lots or large lots to the railway company?—I do not think it is more expensive or anything worth speaking of to cart the smaller ones to the larger ones.

4861. You do not think so?—I am speaking of our traffic alone, because it happens to be consignments of two separate tons. They are both in one truck, and they are taken to the same market and the doors of the consignees may be together.

4862. *Mr. Davis*: It is more costly to the trader to cart a big weight to the station than the smaller weight in proportion?—Yes.

4863. Therefore, you wish to have rather a free hand so that you can take what you like to the station and you can have the companies fetch the other. I want you to develop that point, as perhaps I do not understand it?—Let me explain this point. We get a very large percentage of it as Mr. Jepson knows in this way. Perhaps half a dozen traders will be consigned together. They will all be loaded in one truck, four tons. Those consignments may be for different people in one market. If the traders

had to cart those goods, they would have to send four different vans, but the railway company will bring them down all in one van, which is quite a different proposition altogether.

4864. *Mr. Jepson*: That is the reason?—Yes. I do not say that the railway companies are not entitled to be properly paid for that service. In fact, they are entitled to by statute, and I think they should be. I do not quarrel with that. With regard to cartage particularly, my Federation hopes the Committee will not make any such recommendation as shall lead to granting the railway company such rights as are asked for in paragraphs 1 and 2 under the heading of "Cartage" in the Railway Companies' Association's reply to the Ministry of Transport's letter on page 14 of the First Day's Report of the Committee's Proceedings, and suggests the railway companies have all the power they need or that it is wise to give them under Section 5 of the Rates and Charges Order Confirmation Act, 1891-1892. The railway companies, I think, are asking for power, if the trader does not fetch them within a time that they deem reasonable, to take them to the trader's door whether it is convenient for him or not, which is a very serious matter for him.

4865. *Mr. Acworth*: How long do you think they ought to be entitled to free storage on the railway premises?—It would depend on the circumstances.

4866. There must be some time limit, I suppose? They could not leave them for a week; the trader would not expect that?—If they did, they would have to pay for them.

4867. The railways, as I understand, say that after a reasonable period of free time you must get them out of the way?—I quite agree if they do not get them away they must pay. They have to do that to-day.

4868. Is not the railway company entitled to say, "We do not regard our stations as warehouses. If you use it as a warehouse, we shall not be able to deal with other men's goods. You must get out and make way for them"? Is not that a reasonable thing to say?—I do not know of any circumstances that would lead me to think that such is the case, and I do not think it is called for, if I may suggest it.

Mr. Acworth: I have seen platforms blocked with luggage and things.

4869. *Mr. Jepson*: You are referring particularly to vegetables—potatoes?—Yes.

4870. Are you afraid that the railway companies in exercise of the powers which they ask in their replies to the Minister might interfere with the concession they have already given you for potatoes to have the trucks under load two days without any extra charge? I do not know whether that was passing through your mind in making that statement?—No. As I see the question, it is this. The railway companies have this power at the moment, that if the trader does not clear his goods within what is termed a reasonable time, they have power to charge, and they do charge, and I think it will be generally admitted that the charges are pretty heavy to-day.

4871. They charge demurrage on the trucks now?—Yes, and they charge for warehouse room, too, if they can get it.

4872. *Mr. Acworth*: What the railways want and what the public want is that the railway shall not make revenue out of you because you leave your stuff at the stations, but that you should get it out of the way and let the railway company have room to deal with other people's stuff?—Yes; I think that is the argument they use, and that was the argument that I used in my opening matter with regard to getting goods to market. We do not want to claim for them. We want the goods there.

4873. And the railway company say we do not want to charge you demurrage, but we want to get your stuff out of the way?—Yes; but for our trade I could not agree that they should be given the right of sending any mortal stuff upon a man's premises without regard as to whether he could accept it or not. They may have detained it a week or a month themselves and made it so that he cannot take it. I have plenty of cases of goods being detained two and three weeks—innumerable cases of that kind.

4874. *Mr. Davis*: To your annoyance?—To our annoyance and very serious loss. I consider that is a monstrous suggestion. With regard to private sidings, my trade is so very little interested in private sidings that they would prefer to leave that matter to other interests to deal with, but I would like to make this point. I think it was mentioned by Mr. Marshall Stevens. I do think that traders who have private sidings should have the right of consigning other traders' goods away from them if they wish to. A case has happened just recently which forces that upon me. It will be in the knowledge of anyone in our business that there are innumerable stations all over the country that are not able to accept traffic or will not accept traffic when it was tendered. It has been a convenience to some farmers to put their goods in the warehouse of a private siding connected with the railway and so save the expense of bringing their teams and their men to the station a second day or a third day, as the case may be, but they have loaded out of these private sidings. I do not know whether traders have the right, at the moment, of doing so, but if they have not, I would suggest to the Committee that they should recommend that that be given to them, so that anyone having a private siding connected with a railway could consign other people's goods away from it. It seems such an obvious and wise thing to do. With regard to the carriage of goods and the risks that one takes, the Federation would agree with what was suggested by Mr. Balfour Browne with regard to the companies' risk consignment note, that there need not be any conditions attached to it at all. If anything arose under it, the Court would determine what was reasonable and what was not, according to the powers that the railway companies possess. With regard to the owners' risk note, I think the traders have to accept the position that the companies are entitled to make certain conditions as a set-off against certain concessions in the rate. What we say to that is, that we will accept the draft of a consignment note for owner's risk that was made by Mr. Balfour Browne on page 29 on the 6th day, subject to damageable goods being classified by agreement between members of this Federation and the railway companies, or, failing this, by the new tribunal that is to be set up. If the trader thinks the conditions which the railway companies seek to impose as conditions to get the lower rate are not treating the traders fairly, the trader should have the right to go to the new tribunal to determine what is right and reasonable. Now I come to preference. I think this was raised by Mr. Lobjoit. My Federation considers that Section 27 of the Act of 1888, though we do not mention the strengthening of the Act as Mr. Lobjoit did, should be enforced by the Ministry of Transport, and not by an individual trader.

4875. *Chairman*: Somebody must call his attention to the alleged misconduct?—Quite.

4876. Then you think if he is satisfied that there is misconduct, he ought to take proceedings on behalf of the trader?—I think I am correct in saying there is one case where the power was left to the Attorney-General to do it. I am told it is reported somewhere about 1845. It seems wise to me to revive that, so that the public should have the protection which the Ministry could give them in that respect. With regard to preference, we differ from some of the other traders in this respect, that we ask that all preference be wiped away.

4877. All exceptional rates abolished?—All exceptional rates abolished.

4878. Potatoes included?—Potatoes yes, but subject to reclassification in a downward direction. With regard to that, we would submit it is an opportune moment for taking into account all these exceptional circumstances. I am instructed that this Federation is in favour of all

preferential rates, facilities, and other conditions being wiped away entirely, and that it should not be left within the power of any railway company to grant any preference of any kind to any person whatsoever with regard to agricultural or horticultural or market garden produce with which members of this Federation deal. We suggest that by a new classification and a proper method of dealing with rates we can abolish a lot of the complications that we have to-day. I would like to mention that we also ask for the division of through rates where water carriage and land carriage are combined. I have in mind a rate—perhaps it was unfortunate that Mr. Lobjoit did not know about it—for potatoes from Boulogne to Aldershot. The pre-war rate was at one time 9s., later 10s., later 11s. for 10-ton lots. From Folkestone, the town where the potatoes from Boulogne were landed, to Aldershot, was 13s. 6d. That was the lowest rate on the rate books. We suggest that these water and land rates should be separated entirely. We do not object to the railway companies owning steamers and doing whatever business they like so long as that business is entirely on a separate footing, but we do say this with regard to that land traffic, that English producers shall not be prejudiced by such rates as I have mentioned to you. I have in mind another, and it occurred to me when Sir Alexander was speaking about wanting to retain his right to drop rates. I personally remember asking for a rate from a certain district from Goole to Newcastle. The rates from Hull for the same produce, the same load, were roughly 10 per cent. less than they were for the shorter distance. I submit that railway companies ought not to be allowed to retain the power which would grant such a preference to foreign produce such as that. I submit it is not fair.

4879. *Mr. Acworth*: With regard to the Folkestone rate, will you tell me was 13s. 6d. for any quantity up to 3 cwt.?—13s. 6d. for over two tons.

4880. Did anybody ever ask for a 10-ton rate from Folkestone?—I believe a firm in the potato trade asked for a six-ton rate and they would not grant it, but I am speaking from memory. It is a long time since I saw the Report, but I think that in the very Report that Sir John Simon was quoting this morning there is a question of a 10-ton rate for potatoes from certain French ports to London. My firm asked the Brighton and South Coast Railway at that particular time for a five-ton rate from Newhaven to certain inland towns and they would not grant it. I think it is recorded in that particular Report, but I am not sure.

4881. *Sir John Simon*: We will look it up.—If it is not in that Report—I am speaking from memory—it is in a later Report, but I think it is in that.

4882. *Mr. Jepson*: Jersey potatoes are sent from Southampton and from Newhaven—provided the charge is the same—and they have to be the same for competition purposes in London—at the same through rate to London. Do you object to the Brighton and South Western companies so framing their rates to bring about that result, and charging the same rate to London?—If I am a trader recommending these things, I must accept the consequeuces, and I accept the consequences in that case. Let us have division of rates. Let me put it very plainly.

4883. What is the object of division of rates?—We will take the Folkestone rate.

4884. Do you mind taking the illustration I have given you?—It would be the same. The division of rates shows you what the sea freight is. If the rate to Southampton is a pound, it must be a pound for the Southampton trader as well as the London trader who is sending his goods by them. I am alluding to the Jersey traffic, which is the traffic you have mentioned. The rate from Southampton to London is another figure, and the trader must pay that.

4885. Although it may cut out the competition from Newhaven altogether? Newhaven is a shorter distance to London than Southampton. Assume the sea freight is the same from Jersey to Southampton and to Newhaven?—I have not quite got your point.

4886. Assume that the sea freight from Jersey to Southampton and Newhaven are the same—one pound if you like?—It does not matter what it is.

4887. If the South Western are to carry any traffic by their route to London they must charge the same as the Brighton Company charge from Newhaveu to London. Do you say they ought to be barred from saying, Newhaven being a shorter distance to London ought to have a lower rate than from Southampton?—I do not say they should be barred from saying that. I say let them do the service if they want to, but let them be paid properly for the service.

4888. *Chairman*: Supposing a trader were given a 10-ton lot at 5s., would you allow them to accept that?—If they want to make the rate less for the 10-ton lot, then I agree with that. If the rate is for the 10-ton lot, and so on, I do accept it.

4889. If they quote 5s. a ton for goods consigned in 10-ton lots, there is no objection to that?—No.

4890. Then there comes along a trader who offers them a 1-ton lot. Do you say they are bound to accept that at the same rate as the 10-ton lot?—No; I do not say that.

4891. Do you say they have acted any differently there from what has been described?—Yes; I say on the division of the sea rate——

4892. There is the statute about division, as I understand. What good do you get from the division?—Well, you may do.

4893. *Mr. Jepson*: The only reason you are asking for division is following up your point that there should be no preference on that point?—Yes.

4894. Would you consider it a preference if the Brighton Company, in the circumstances mentioned, carried from Southampton to London at the same rate as the Brighton Company carried from Newhaven to London, with the same couditions of truck-loads, if you like? It being a greater distance, would that be a preference, from your point of view?—No; under the system we recommend the two companies would be paid according to the distance which they carried.

4895. *Chairman*: Then what Mr. Jepson is suggesting is wrong?—I am afraid I am not getting the point.

4896. *Mr. Jepson*: Let me put it again. Assume the same sea freight from Jersey to Southampton and to Newhaven, £1?—Yes.

4897. Everything is equal up to that point?—The South Westeru and the Brighton have to get the traffic into London. If the South Western are to carry anything from Southampton they must carry it at the same rate as the Brighton do from Newhaven, which is the shorter distance?—Why must?

4898. Assuming one paid 10s. for 120 miles, and 10s. for 70 miles, would you consider that a preference?—You said they must.

4899. *Chairman*: Just answer what Mr. Jepson is asking you. Would you consider that a preference?—I should say each railway company was entitled to carry them according to the distance on the land.

4900. If one distance is 80 miles and the other distance is 50 miles, would you say it was improper and ought to be illegal for the distance of 80 miles to be carried at the same rate as the distance of 50 miles?—I would, unless the intervening stations were to be on the same lines for any English produce.

4901. Suppose you do put all intervening stations on the same basis for 10-ton lots, would that satisfy your requirements?—No. If I may submit it, there seem two different points.

4902. I think we must have that to-morrow morning.—Very well.

(Adjourned till to-morrow morning at 11 *o'clock.)*